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California State Senate

EDUCATION



CONNIE LEYVA
CHAIR

Staff Director
Lynn Lorber

Principal Consultant
Brandon Damell
Olgallila Ramirez
Ian Johnson

Committee Assistant
Lauren Robinson
Irma Kam

State Capitol, Room 2083
(916) 651-4105
FAX: (916) 324-0917

AGENDA

Wednesday, March 10, 2021
9 a.m. -- John L. Burton Hearing Room (4203)

ADOPTION OF COMMITTEE RULES

ADOPTION OF CURRICULUM POLICY

MEASURES HEARD IN FILE ORDER

- | | | | |
|------|--------|------------|---|
| 1. | SB 14 | Portantino | Pupil health: school employee and pupil training: excused absences: youth behavioral health. |
| 2. | SB 224 | Portantino | Pupil instruction: mental health education. |
| 3. | SB 237 | Portantino | Special education: dyslexia risk screening. |
| 4. | SB 20 | Dodd | Student nutrition: eligibility for CalFresh benefits. |
| 5. | SB 26 | Skinner | Collegiate athletics: student athlete compensation and representation. |
| 6. | SB 70 | Rubio | Elementary education: kindergarten. |
| *7. | SB 97 | Roth | Pupil health: type 1 diabetes information: parent notification. |
| *8. | SB 291 | Stern | Advisory Commission on Special Education: pupil advisory council. |
| 9. | SB 330 | Durazo | California Community Colleges: affordable housing. |
| 10. | SB 22 | Glazer | Education finance: school facilities: Public Preschool, K-12, and College Health and Safety Bond Act of 2022. |
| 11. | SB 217 | Dahle | Comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education. |
| *12. | SB 436 | Dahle | Community colleges: nonresident tuition. |
| 13. | SB 205 | Leyva | School and community college employees: absences due to illness or accident. |
| *14. | SB 228 | Leyva | Public postsecondary education: support services for foster youth: Cooperating Agencies Foster Youth Educational Support Program. |
| 15. | SB 246 | Leyva | Early childhood education: reimbursement rates. |
| 16. | SB 309 | Leyva | School finance: college readiness: grants and notification. |
| 17. | SB 566 | Leyva | Public postsecondary education: California State University: support staff employees: merit salary adjustments. |

*Proposed consent

SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 14 **Hearing Date:** March 10, 2021
Author: Portantino
Version: March 3, 2021
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Pupil health: school employee and pupil training: excused absences: youth mental and behavioral health

SUMMARY

This bill (1) specifically adds “for the benefit of the behavioral health of the pupil” to the list of categories of excused absences for purposes of school attendance, and (2) requires the California Department of Education (CDE) to identify (A) an evidence-based training program for local education agencies (LEAs) to use to train classified and certificated school employees having direct contact with pupils in youth behavioral health, and (B) an evidence-based behavioral health training program with a curriculum tailored for pupils in grades 10 to 12, inclusive.

BACKGROUND

Existing law:

- 1) Specifies that excused absences are deemed to be absences in computing average daily attendance (ADA) and shall not generate state apportionment payments. (Education Code § 48205)
- 2) Provides a list of reasons that constitute an excused absence, which include, among others, that the absence of a student is to be excused when the absence is:
 - a) Due to his or her illness, or quarantine under the direction of a county or city health officer.
 - b) Due to quarantine under the direction of a county or city health officer.
 - c) For the purpose of having medical, dental, optometric, or chiropractic services rendered.
 - d) For the purpose of attending the funeral services, as specified.
 - e) For the purpose of spending time with an immediate family member who is an active duty member of the military, as specified.
- 3) Provides that any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid

excuse on any day or is tardy for more than 30 minutes, or any combination thereof, for three days in a school year shall be classified as "truant." (Education Code § 48260)

- 4) Provides that a valid excuse may include other reasons that are within the discretion of school administrators and based on the facts of the pupil's circumstances. (EC § 48260)
- 5) Requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the district to employ properly certified persons for the work. (EC § 49400)
- 6) Requires the governing board of any LEA that serves pupils in grades seven to twelve, inclusive, to adopt a policy on pupil suicide prevention, intervention, and postvention. The policy shall specifically address the needs of high-risk groups, including suicide awareness and prevention training for teachers, and ensure that a school employee acts within the authorization and scope of the employee's credential or license. (EC § 315)
- 7) Describes behavioral health as including, but not being limited to, mental health and substance abuse issues. (Welfare and Institutions Code § 11325.2)

ANALYSIS

This bill (1) specifically adds "for the benefit of the behavioral health of the pupil" to the list of categories of excused absences for purposes of school attendance, and (2) requires the California Department of Education (CDE) to identify (A) an evidence-based training program for local education agencies (LEAs) to use to train classified and certificated school employees having direct contact with pupils in youth behavioral health, and (B) an evidence-based behavioral health training program with a curriculum tailored for pupils in grades 10 to 12, inclusive, for use by LEAs. Specifically, this bill:

- 1) Adds "for the benefit of the behavioral health of the pupil" to the list of categories of excused absences for purposes of school attendance.
- 2) Requires CDE to identify an evidence-based training program for a local educational agency to use to train classified and certificated school employees having direct contact with pupils in youth behavioral health that meets all of the following requirements:
 - a) Is a peer-reviewed evidence-based training program.
 - b) Provides instruction on recognizing the signs and symptoms of youth behavioral health, including common psychiatric conditions such as schizophrenia, bipolar disorder, major clinical depression, anxiety disorders, eating disorders, and common substance use disorders such as opioid and alcohol abuse.

- c) Provides instruction on how school staff can best provide referrals to youth behavioral health services, or other support to individuals in the early stages of developing a behavioral disorder.
 - d) Provides instruction on how to maintain pupil privacy and confidentiality in a manner consistent with federal and state privacy laws.
 - e) Provides instruction on the safe deescalation of crisis situations involving individuals with a youth behavioral health disorder.
 - f) Is capable of assessing trainee knowledge before and after training is provided in order to measure training outcomes.
 - g) Is administered by a nationally recognized nonprofit training authority in youth behavioral health disorders.
 - h) Includes in-person and virtual training with certified instructors who can recommend resources available in the community for individuals with a youth behavioral health disorder. For this purpose "certified instructors" means individuals who obtain or have obtained a certification to provide the selected training in youth behavioral health training by a nationally recognized authority in behavioral health training programs.
- 3) Requires LEAs to provide the youth behavioral health training identified to certificated and classified employees during regularly scheduled work hours.
 - 4) Authorizes certificated or classified employees, if they receive the youth behavioral health training in a manner other than through an in-service training program provided by an LEA, to present a certificate of successful completion of the training to the LEA for purposes of satisfying the bill's requirements.
 - 5) Prohibits training in youth behavioral health from being a condition of employment or hiring for classified or certificated employees.
 - 6) Requires an LEA to certify to the CDE, on or before January 1, 2023, that at least 50 percent of its combined certificated and classified employees having direct contact with pupils at each school, or at least two classified and at least two certificated employees having direct contact with pupils at each school, whichever is greater, have received the youth behavioral health training identified by CDE.
 - 7) Provides that the training requirements shall be implemented only to the extent an appropriation is made in the annual Budget Act or another statute for these purposes.
 - 8) Requires CDE identify an evidence-based youth behavioral health training program with a curriculum tailored for pupils in grades 10 to 12, inclusive, for use by LEAs, that meets all of the following requirements:
 - a) Is peer-reviewed and evidence-based.

- b) Provides developmentally appropriate instruction and skill building on the signs and symptoms of, preventing, and increasing awareness of and assistance for, youth behavioral health disorders.
 - c) Provides instruction on how to reduce the stigma around youth behavioral health disorders and available resources, including local school and community resources, and the process for accessing treatment.
 - d) Provides instruction on strategies to develop healthy coping techniques and to support a peer, friend, or family member with a youth behavioral health disorder.
 - e) Seeks to prevent suicide and the abuse of and addiction to alcohol, nicotine, and other drugs.
 - f) Adheres to a curriculum developed by a nationally recognized nonprofit training authority in youth behavioral health disorders that is structured to train all pupils in grades 10 to 12, inclusive, ensuring every pupil in each grade level is equipped with the essential skills needed to seek help for themselves and to direct others seeking help to the appropriate avenues for support.
 - g) Includes training with certified instructors who can recommend resources available in the community for individuals with a youth behavioral health disorder.
- 9) Requires LEAs to report to CDE, on or before January 1, 2023, the number of pupils who have voluntarily completed the youth behavioral health training program.
- 10) Specifies the following definitions for its purposes:
- a) "LEA" means a county offices of education, school district, state special school, or charter school that serves pupils in any of grades 7 to 12, inclusive.
 - b) "Youth behavioral health disorders" means pupil mental health and substance use disorders.
 - c) "Youth behavioral health training" means training address the signs and symptoms of a pupil mental health or substance use disorder.
- 11) Provides that the provisions relating to the training program for pupils shall be implemented only to the extent an appropriation is made in the annual Budget Act or another statute for these purposes.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "California's youth are suffering. Thirty percent of high school students report experiencing depression symptoms - feeling sad or hopeless almost every day for 2 or more weeks in a row, so much so that they stopped doing some usual activities. Eighteen percent of high school students have seriously considered attempting suicide, and 8% attempted suicide one or more times. Suicide is the second cause of death for youth 15 to 24 years old and the third leading cause of death among youth aged 10 to 14. In addition, marginalized populations, particularly LGBTQ youth, are at even greater risk."

- 2) ***Increasing occurrences of pupil mental health issues.*** According to a Pew Research Center analysis of data from the 2017 National Survey on Drug Use and Health, in 2017, 3.2 million teens aged 12-17 said they had at least one depressive episode within the past 12 months. This is up by 1.2 million from the same survey conducted by the National Survey on Drug Use and Health in 2007. One-in-five (2.4 million) teenage girls reported experiencing one depressive episode in 2017, compared to 845,000 teenage boys. According to data from the Centers for Disease Control and Prevention, 13 percent of students in grades 9-12 in California in 2017 reported experiencing at least one depressive episode within the last 12 months. 32 percent felt sad or hopeless almost every day for 2 or more weeks in a row so that they stopped doing some usual activities within the past year, compared to 31 percent for the United States. 17 percent of pupils in grades 9-12 reported considering suicide attempts, while 9 percent reported they attempted suicide at least once within the past 12 month.

This trend is confirmed by data from the Office of Statewide Health Planning and Development. In 2019, emergency rooms throughout California treated 84,584 young patients' ages 13 to 21 who had a primary diagnosis involving mental health. That is up from 59,705 in 2012, a 42 percent increase.

- 3) ***COVID-19 has had an exacerbating effect on mental health issues.*** According to the 2020 report, "Roadmap for Resilience: The California Surgeon General's Report on Adverse Childhood Experiences, Toxic Stress, and Health," COVID-19 has only furthered the mental health issues children face. As the report notes, "For many children, the school is a bedrock of community belonging. The pandemic has not only disrupted children's academic opportunities and connections with their peers and educators, it has also surfaced new and difficult experiences in the home: fear, anxiety, financial distress, food and housing insecurity, and countless other challenges. Economic uncertainty is associated with increases in harsh parenting, which increases risk for child abuse and neglect, and the loss of friends and family through illness and isolation can also increase the total dose of acute stress and adversity and reduce the dose of buffering supports available from caregivers, educators, and other adults."

- 4) ***Existing mental health services in schools.*** Mental health services in schools include a broad range of services, settings, and strategies. Mental health services that are provided in schools may include academic counseling, brief interventions to address behavior problems, assessments and referrals to other systems. Providing mental health services in a school-based setting helps

address barriers to learning and allows for early intervention activities in a non-stigmatizing environment.

As mentioned above, the governing board of any LEA that serves pupils in grades seven to twelve, inclusive, must adopt a policy on pupil suicide prevention, intervention, and postvention. The policy shall specifically address the needs of high-risk groups, including suicide awareness and prevention training for teachers, and ensure that a school employee acts within the authorization and scope of the employee's credential or license.

- 5) ***Previous mental health workgroup recommendations.*** Former Superintendent of Public Instruction (SPI), Tom Torlakson, convened a Student Mental Health Policy Workgroup, with funding from the California Mental Health Services Authority (CalMHSA), with the goals of assessing the current mental health needs of California students and gathering evidence to support its policy recommendations to the SPI and to the California Legislature.

The Workgroup issued several recommendations. Among them, the Workgroup recommends that LEAs provide professional development to educators and other community members, so they can identify mental health issues as they arise, especially during adolescence.

- 6) ***Existing illness verification regulations.*** Existing regulations issued by the CDE require an absence for illness to be verified in an accordance with any reasonable method that established the fact that the pupil was actually ill that has been approved by the governing board of the LEA. Those regulations authorize the following persons to verify an absence due to illness:

- a) A school or public health nurse.
- b) An attendance supervisor.
- c) A physician.
- d) A principal.
- e) A teacher.
- f) Any other qualified employee of a district or of a county superintendent of schools to make such a verification.

Verification under these regulations looks different in different LEAs. Some LEAs may require verification beyond a parent's note or verbal verification after five illness-related absences, others may only require a physician note after ten absences. However, while mental health is an important as physical health, it is not necessarily treated by a physician. Accordingly, ***staff recommends that the bill be amended*** to require the SBE to update its illness verification regulations, as necessary, to account for the specific inclusion of mental or physical illness within "illness."

Further, under existing law, nothing necessarily prohibits a mental or behavioral health from being considered an “illness” for excused absence purposes. However, the author’s office indicates that this bill will ensure that students’ mental health needs are treated equally to their physical health needs. To the extent that there is ambiguity as to whether mental or behavioral health is included within “illness” for excused absence purposes, the bill appropriately eliminates that ambiguity. This bill, as drafted, adds “for the benefit of the pupil’s mental or behavioral health” as a new category in the list of categories of excused absences. However, because there is nothing in existing law that prohibits the category of “illness” from including mental or behavioral health, and because the regulatory scheme for verification is based upon the illness category, **staff recommends a technical amendment** to remove the new category from the bill and instead add “including for the benefit of the pupil’s mental or behavioral health” to the illness category.

- 7) **Related and previous legislation.** SB 224 (Portantino, 2021) requires each school district to ensure that all pupils in grades 1 to 12, inclusive, receive medically accurate, age-appropriate mental health education from instructors trained in the appropriate courses, and that each pupil receive this instruction at least once in elementary school, at least once in junior high school or middle school, and at least once in high school. SB 224 is scheduled to be heard in this committee on March 10, 2021.

SB 849 (Portantino, 2020) was similar to this bill and would have specifically added “for the benefit of the mental or behavioral health of the pupil” to the list of categories of excused absences for purposes of school attendance. SB 849 was not heard in this committee due to the shortened legislative calendar.

SB 428 (Pan, 2019) would have required the CDE to identify an evidence-based training program for local educational agencies to use to train classified and certificated school employees having direct contact with pupils in youth mental and behavioral health. SB 428 was vetoed by the Governor, who stated:

“This bill would require the CDE to identify an evidence-based training program on youth mental health for LEAs to use to train classified and certificated employees who have direct contact with students at each school site.

Providing support for students facing mental health is of critical importance. Multiple public agencies beyond CDE hold a responsibility for addressing the mental health crisis impacting young people today. That is why I worked with the Legislature to appropriate \$50 million in this year’s budget to create the Mental Health Student Services Act.

Mental health partnerships among county mental health or behavioral health departments, school districts, charter schools and county offices of education are best positioned to address the diverse mental health needs of young people.”

SUPPORT

California Council of Community Behavioral Health Agencies (Sponsor)
Born This Way Foundation (Co-sponsor)
California Association of Student Councils (Co-sponsor)
County Behavioral Health Directors Association of California (Co-sponsor)
Disability Rights California (Co-sponsor)
GENup (Co-sponsor)
NextGen California (Co-sponsor)
Asian Americans for Community Involvement
Bay Area South Asian Network of Therapists
Bay Area Student Activists
California Hospitals Association
California Student Board Member Association
City of Santa Monica
El Centro De Amistad
Five Acres - the Boys' and Girls' Aid Society of Los Angeles County
Fresno Barrios Unidos
Generation Up
Gwendolyn's Light
Hamburger Home DbA Aviva Family and Children's Services
Hillsides
Mental Health Services Oversight and Accountability Commission
National Association of Social Workers, California Chapter
Pacific Clinics
Pathpoint
Psychiatric Physicians Alliance of California
Providence St. Joseph Health
S.u.p.e.r. Peer Counseling Program, Ramona High School
San Diego Unified School District
San Francisco Unified School District
Tessie Cleveland Community Services Corporation
The Los Angeles Trust for Children's Health
United Parents

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 224 **Hearing Date:** March 10, 2021
Author: Portantino
Version: January 14, 2021
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Pupil instruction: mental health education

SUMMARY

This bill requires each school district to ensure that all pupils in grades 1 to 12, inclusive, receive medically accurate, age-appropriate mental health education from instructors trained in the appropriate courses, and that each pupil receive this instruction at least once in elementary school, at least once in junior high school or middle school, and at least once in high school.

BACKGROUND

Existing law:

- 1) Requires the adopted course of study for grades 1 to 6, inclusive, to include instruction, beginning in grade 1 and continuing through grade 6, in specified areas of study that include health, including instruction in the principles and practices of individual, family, and community health. (Education Code § 51210)
- 2) Requires the Instructional Quality Commission (IQC), during the next revision of the publication "Health Framework for California Public Schools" (health framework), to consider developing, and recommending for adoption by the State Board of Education (SBE), a distinct category on mental health instruction to educate pupils about all aspects of mental health. (EC §51900.5)
- 3) Specifies, for purposes of (1) above, that "mental health instruction" shall include, but not be limited to, all of the following:
 - a) Reasonably designed and age-appropriate instruction on the overarching themes and core principles of mental health.
 - b) Defining common mental health challenges such as depression, suicidal thoughts and behaviors, schizophrenia, bipolar disorder, eating disorders, and anxiety, including post-traumatic stress disorder.
 - c) Elucidating the services and supports that effectively help individuals manage mental health challenges.
 - d) Promoting mental health wellness, which includes positive development, social connectedness and supportive relationships, resiliency, problem

solving skills, coping skills, self-esteem, and a positive school and home environment in which pupils feel comfortable.

- e) Ability to identify warning signs of common mental health problems in order to promote awareness and early intervention so pupils know to take action before a situation turns into a crisis. This should include instruction on both of the following:
 - i) How to appropriately seek and find assistance from mental health professionals and services within the school district and in the community for themselves or others.
 - ii) Appropriate evidence-based research and practices that are proven to help overcome mental health challenges.
 - f) The connection and importance of mental health to overall health and academic success as well as to co-occurring conditions, such as chronic physical conditions and chemical dependence and substance abuse.
 - g) Awareness and appreciation about the prevalence of mental health challenges across all populations, races, ethnicities, and socioeconomic statuses, including the impact of culture on the experience and treatment of mental health challenges.
 - h) Stigma surrounding mental health challenges and what can be done to overcome stigma, increase awareness, and promote acceptance. This shall include, to the extent possible, classroom presentations of narratives by peers and other individuals who have experienced mental health challenges, and how they coped with their situations, including how they sought help and acceptance. (EC §51900.5)
- 4) Requires the IQC, in the normal course of recommending curriculum frameworks to the SBE, to ensure that one or more experts in the mental health and educational fields provides input in the development of the mental health instruction in the health framework. (EC §51900.5)

ANALYSIS

This bill requires each school district to ensure that all pupils in grades 1 to 12, inclusive, receive medically accurate, age-appropriate mental health education from instructors trained in the appropriate courses, and that each pupil receive this instruction at least once in elementary school, at least once in junior high school or middle school, and at least once in high school. Specifically, this bill:

- 1) Requires the instruction to include all of the following:
 - a) Reasonably designed instruction on the overarching themes and core principles of mental health.

- b) Defining common mental health challenges. Depending on pupil age and developmental level, this may include defining conditions such as depression, suicidal thoughts and behaviors, schizophrenia, bipolar disorder, eating disorders, and anxiety, including post-traumatic stress disorder.
- c) Elucidating the medically accurate services and supports that effectively help individuals manage mental health challenges.
- d) Promoting mental health wellness, which includes positive development, social connectedness and supportive relationships, resiliency, problem solving skills, coping skills, self-esteem, and a positive school and home environment in which pupils feel comfortable.
- e) The ability to identify warning signs of common mental health problems in order to promote awareness and early intervention so that pupils know to take action before a situation turns into a crisis. This shall include instruction on both of the following:
 - i) How to seek and find assistance from mental health professionals and services within the school district and in the community for themselves or others.
 - ii) Medically accurate evidence-based research and culturally responsive practices that are proven to help overcome mental health challenges.
- f) The connection and importance of mental health to overall health and academic success and to co-occurring conditions, such as chronic physical conditions, chemical dependence, and substance abuse.
- g) Awareness and appreciation about the prevalence of mental health challenges across all populations, races, ethnicities, and socioeconomic statuses, including the impact of race, ethnicity, and culture on the experience and treatment of mental health challenges.
- h) Stigma surrounding mental health challenges and what can be done to overcome stigma, increase awareness, and promote acceptance. This shall include, to the extent possible, classroom presentations of narratives by trained peers and other individuals who have experienced mental health challenges and how they coped with their situations, including how they sought help and acceptance.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author's office, "Education about mental health is one of the best ways to increase awareness, empower students to seek help, and reduce the stigma associated with mental health challenges. Schools are ideally positioned to be centers of mental health education, healing, and support. As children and youth spend more hours at school than at home, the

public education system is the most efficient and effective setting for providing universal mental health education to children and youth.

Historically, health education in subjects such as alcohol, tobacco and drugs, the early detection of certain cancers, and HIV have become required because they were recognized as public health crises. The mental health of our children and youth has reached a crisis point. California must make educating its youth about mental health a top priority.”

- 2) ***Increasing occurrences of pupil mental health issues.*** According to a Pew Research Center analysis of data from the 2017 National Survey on Drug Use and Health, in 2017, 3.2 million teens aged 12-17 said they had at least one depressive episode within the past 12 months. This is up by 1.2 million from the same survey conducted by the National Survey on Drug Use and Health in 2007. One-in-five (2.4 million) teenage girls reported experiencing one depressive episode in 2017, compared to 845,000 teenage boys. According to data from the Centers for Disease Control and Prevention, 13 percent of students in grades 9-12 in California in 2017 reported experiencing at least one depressive episode within the last 12 months. 32 percent felt sad or hopeless almost every day for 2 or more weeks in a row so that they stopped doing some usual activities within the past year, compared to 31 percent for the United States. 17 percent of pupils in grades 9-12 reported considering suicide attempts, while 9 percent reported they attempted suicide at least once within the past 12 month.

This trend is confirmed by data from the Office of Statewide Health Planning and Development. In 2019, emergency rooms throughout California treated 84,584 young patients’ ages 13 to 21 who had a primary diagnosis involving mental health. That is up from 59,705 in 2012, a 42 percent increase.

- 3) ***COVID-19 has had an exacerbating effect on mental health issues.*** According to the 2020 report, “Roadmap for Resilience: The California Surgeon General’s Report on Adverse Childhood Experiences, Toxic Stress, and Health,” COVID-19 has only furthered the mental health issues children face. As the report notes, “For many children, the school is a bedrock of community belonging. The pandemic has not only disrupted children’s academic opportunities and connections with their peers and educators, it has also surfaced new and difficult experiences in the home: fear, anxiety, financial distress, food and housing insecurity, and countless other challenges. Economic uncertainty is associated with increases in harsh parenting, which increases risk for child abuse and neglect, and the loss of friends and family through illness and isolation can also increase the total dose of acute stress and adversity and reduce the dose of buffering supports available from caregivers, educators, and other adults.”
- 4) ***Health is not a required course or topic in middle school or high school.*** As noted above, the adopted course of study for grades 1 to 6, inclusive, includes health. However, there is not similar requirement for the adopted course of study for grades 7 to 12, inclusive. Health is also not a statewide graduation requirement. While it is true that many local educational agencies teach health in some capacity in middle school and high school, there is no requirement to do so

beyond the requirement to teach comprehensive sexual health education and HIV prevention education, which is not specific to mental health, which is required at least once in middle school and once in high school via the California Healthy Youth Act (CHYA). This bill mimics the CHYA's approach to require specific mental health instruction in school districts. Recently, the CHYA was amended to apply to all local educational agencies, including charter schools (AB 2601 (Weber, Ch. 495, Stats. 2018)). Accordingly, **staff recommends that the bill be amended** to apply to all local educational agencies, including school districts, county offices of education, state special schools, and charter schools.

- 5) **Recently adopted health framework includes mental health.** While health is not a specifically required topic or course in middle school or high school, the SBE has adopted both content standards and a curriculum framework for health. On May 8, 2019, the SBE adopted the *2019 Health Education Curriculum Framework for California Public Schools, Transitional Kindergarten Through Grade Twelve*. The revised framework includes additional instructional strategies relating to mental health. While this bill includes that the same language relating to mental health that existing law required the IQC to consider including in the revised framework, to the extent that the framework does not include each specific item, the bill would require instruction that the health framework does not require. This would repeat a similar problem raised by the CHYA, which required instruction for several years that was not covered by the health framework until its recent revision. The health framework will not be revised again until 2027.
- 6) **Related legislation.** SB 14 (Portantino, 2021) (1) specifically adds "for the benefit of the mental or behavioral health of the pupil" to the list of categories of excused absences for purposes of school attendance, and (2) requires the California Department of Education (CDE) to identify (A) an evidence-based training program for local education agencies (LEAs) to use to train classified and certificated school employees having direct contact with pupils in youth mental and behavioral health, and (B) an evidence-based mental and behavioral health training program with a curriculum tailored for pupils in grades 10 to 12, inclusive. SB 14 is scheduled to be heard by this committee on March 10, 2021.

SUPPORT

California Association of Student Councils (Co-sponsor)
 The Children's Partnership (Co-sponsor)
 American Civil Liberties Union – California
 Aviva Family and Children's Services
 California Academy of Child and Adolescent Psychiatry
 California Association of Health, Physical Education, Recreation & Dance
 California Association of Marriage and Family Therapists
 California Association of Local Behavioral Health Boards and Commissions
 California Hospital Association
 California School-based Health Alliance
 CASA Pacifica Centers for Children and Families
 Children Now
 City of Santa Monica

County Behavioral Health Directors Association of California
Disability Rights California
Five Acres - the Boys' and Girls' Aid Society of Los Angeles County
Generation Up
Mental Health America of Los Angeles
Mental Health Services Oversight and Accountability Commission
Public Advocates, Inc.
Psychiatric Physicians Alliance of California
San Francisco Unified School District
The Kennedy Forum
Wellness Together

OPPOSITION

None received

-- END --

SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair
2021 - 2022 Regular

| | | | |
|--------------------|---------------|----------------------|----------------|
| Bill No: | SB 237 | Hearing Date: | March 10, 2021 |
| Author: | Portantino | | |
| Version: | March 3, 2021 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Ian Johnson | | |

Subject: Special education: dyslexia screening

SUMMARY

This bill requires local educational agencies (LEAs) serving students in kindergarten to grade 2 to annually screen all students for risk of dyslexia using state-approved instruments, unless objected to in writing by a student's parent or guardian, beginning in the 2022-23 school year.

BACKGROUND

Existing law:

- 1) Defines a specific learning disability as a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or perform mathematical calculations. (United States Code, Title 20, § 1401, and Education Code § 56337)
- 2) Includes in the definition of a specific learning disability conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Existing regulations specify that the basic psychological processes include attention, visual processing, auditory processing, sensory-motor skills, cognitive abilities (including association), conceptualization and expression. (California Code of Regulations, Title 5, § 3030)
- 3) Provides that a student who is assessed as being dyslexic and meets eligibility criteria for the category of specific learning disabilities is entitled to special education and related services. (EC § 56337.5)
- 4) Provides that if a student who exhibits the characteristics of dyslexia or another related reading dysfunction is not found to be eligible for special education and related services, the student's instructional program is to be provided in the regular education program. (EC § 56337.5)
- 5) Encourages institutions of higher education to provide, in teacher training programs, increased emphasis on the recognition of, and teaching strategies for, specific learning disabilities, including dyslexia and related disorders. (EC § 44227.7)

- 6) Encourages the inclusion of a component on the recognition of, and teaching strategies for, specific learning disabilities, including dyslexia and related disorders, in local in-service training programs for regular education teachers and special education teachers in local educational agencies. (EC § 56245)
- 7) Requires the Superintendent of Public Instruction (SPI) to develop program guidelines for dyslexia to be used no later than the beginning of the 2017-18 school year to assist regular education teachers, special education teachers, and parents to identify and assess pupils with dyslexia. The program guidelines must include characteristics typical of pupils with dyslexia and strategies for their remediation, as well as information to assist educators in distinguishing between characteristics of dyslexia and characteristics of normal growth and development. (EC § 56335)

ANALYSIS

This bill:

- 1) Requires the State Board of Education to establish by June 30, 2022 a list of culturally, linguistically, and developmentally appropriate screening instruments to be used by LEAs to screen pupils for risk of dyslexia. The areas to be screened shall include at least the following:
 - a) Phonological and phonemic awareness, including phoneme blending, phoneme segmenting, and phoneme manipulation tasks.
 - b) Sound-symbol recognition and symbol-sound recognition.
 - c) Alphabet knowledge.
 - d) Decoding skills, including real and nonsense words.
 - e) Rapid automatized naming, with letters, digits, objects, or colors.
- 2) Requires LEAs serving students in kindergarten to grade 2 to annually screen all students for risk of dyslexia using state-approved instruments, unless objected to in writing by a student's parent or guardian, beginning in the 2022-23 school year.
- 3) Requires the results from the required screenings to be made available to an assessed pupil's parent or guardian in a timely manner, but within 45 days of the assessment, and include information on how parents or guardians can access, on the department's internet website, information about the Multi-Tiered System of Supports and the California Dyslexia Guidelines.
- 4) Specifies that if a pupil from another state enrolls for the first time in any of the grades kindergarten to grade 2, inclusive, in the middle of the school year, the LEA must screen the pupil for dyslexia upon enrollment, unless the parent or guardian objects in writing or presents documentation that the pupil had a similar

screening in their prior state of residence and the parent or guardian was made aware of the results.

- 5) Encourages LEAs to use structured literacy instruction and progress monitoring recommended in the California Dyslexia Guidelines, as appropriate, for pupils assessed as being dyslexic in their regular education program.
- 6) Specifies that screening pursuant to this measure shall not be considered an evaluation to establish eligibility for special education and related services.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Dyslexia is the most common learning disability with at least 10% of the general population having dyslexia—some estimate it to be over 15%. And, research has found as high as 80% of struggling readers are on the dyslexia spectrum. Students struggling with dyslexia often go undiagnosed.

“Students with dyslexia are less likely to graduate high school and attend college, and also experience higher rates of incarceration. In some prisons today, where nearly 80% of the inmates are illiterate, almost one-half of the inmates are on the dyslexia spectrum.

“Research evidence from multiple scientific studies is unequivocal: early identification and intervention with scientifically based early reading instruction strategies and materials improves literacy outcomes for students with dyslexia and other struggling readers.

“By screening all students for risk of dyslexia early, California can help families and teachers achieve the best learning and life outcomes for all students, close academic achievement gaps, and help end the school-to-prison pipeline.”

- 2) ***What is dyslexia?*** Dyslexia is a neurological condition caused by an atypical wiring of the brain. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge.

There is no cure for dyslexia and individuals with this condition must learn coping strategies. However, research indicates that dyslexia has no relationship to intelligence. Individuals with dyslexia are neither more nor less intelligent than the general population. In fact, the way individuals with dyslexia think can be an asset in that it allows them to evaluate problems and create solutions in innovative ways.

- 3) ***Identifying dyslexia.*** According to the International Dyslexia Association, the key symptoms of dyslexia are problems with decoding or single word reading

and/or poor reading fluency and poor spelling. Assessment by a skilled professional can determine if the student struggles with phonological processing.

Assessment of dyslexia involves individual testing, most often provided by a team of qualified professionals who have had extensive clinical training in assessment as part of a graduate degree program. Evaluation by a medical doctor is not required for assessment or identification of dyslexia. Federal law states that assessment for a specific learning disability, such as dyslexia, must consider a student's response to intervention or classroom instruction. Early intervention or additional direct instruction should begin as early as kindergarten or first grade for struggling readers when the gap is small and students benefit from brain plasticity advantages for learning language-based information.

Evaluation of dyslexia involves collecting information about birth history, family history, child development, including speech and language development, and early educational history. School records and child response to previous interventions is also needed to ensure an accurate assessment.

- 4) ***Existing program guidelines for dyslexia.*** Chapter 647, Statutes of 2015 (AB 1369, Frazier) required the SPI to develop, and complete for use beginning in the 2017-18 school year, program guidelines for dyslexia. The guidelines are to be used to assist regular education teachers, special education teachers, and parents to identify and assess pupils with dyslexia, and to plan, provide, evaluate, and improve educational services to pupils with dyslexia.

For purposes of writing the guidelines, CDE was required to consult with teachers, school administrators, other educational professionals, medical professionals, parents, and other professionals involved in the identification and education of pupils with dyslexia. In addition, CDE created an e-mail box through which the public can send questions or comments pertaining to the dyslexia guidelines.

- 5) ***The California Dyslexia Initiative.*** The 2019-20 state budget appropriated \$4 million for the California Dyslexia Initiative, which is now administered by the Sacramento County Office of Education. The goals of the Initiative include building capacity in the statewide system of support for LEAs to provide early intervention services and supports for students with specific learning disabilities (such as dyslexia), identifying effective models for identification and treatment of specific learning disabilities, developing and delivering professional development on evidence-based instruction and strategies informed by research, developing partnerships between LEAs, and using the statewide system of support structure to disseminate professional learning, resources, and information developed or identified as a result of the Initiative.

SUPPORT

Decoding Dyslexia CA (co-sponsor)
EdVoice (co-sponsor)
California Association of School Psychologists
California Youth Services

Coalition for Learning Disabilities
Disability Rights California
Disability Rights Education and Defense Fund
Diverse Learners Coalition
Dyslexia Training Institute
Eye to Eye
Glean Education
International Dyslexia Association - Los Angeles
International Dyslexia Association - Northern California
International Dyslexia Association - San Diego
International Dyslexia Association - Southern California Tri-counties
LA Comadre Network
Learning Rights Law Center
Parents Helping Parents
Speak Up
Task Team of Advocates for Special Kids

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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|--------------------|-------------------|----------------------|----------------|
| Bill No: | SB 20 | Hearing Date: | March 10, 2021 |
| Author: | Dodd | | |
| Version: | December 7, 2020 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Olgalilia Ramirez | | |

Subject: Student nutrition: eligibility for CalFresh benefits

SUMMARY

This bill expands criteria for which a student receives written notice from the California Student Aid Commission (Commission) that they may be eligible for CalFresh benefits based on certain exemptions permitted by federal regulations and to the extent that the commission possesses pertinent information. It further requires the Board of Governors of the California Community Colleges to adopt regulations so that a student who qualifies for a fee waiver (BOG wavier), and whose household income is below 200 percent of the federal poverty level, may also qualify for CalFresh benefits to the extent permitted by federal law.

BACKGROUND

Existing law:

- 1) Establishes in federal law the Supplemental Nutrition Assistance Program (SNAP) to promote the general welfare and to safeguard the health and wellbeing of the nation's population by raising the levels of nutrition among low-income households. It establishes SNAP eligibility requirements, including adjusted net income that is at or below 100 percent of the federal poverty level and is determined to be a substantial limiting factor in permitting a recipient to obtain a more nutritious diet (7 CFR 271.1; 7 CFR 273.9)
- 2) Federal law, prohibits an individual who is enrolled at least half-time in an institution of higher education from eligibility for SNAP benefits, unless the student qualifies for an exemption. To be eligible for an exemption, a student must meet at least one of the following criteria:
 - a) Be age 17 or younger or age 50 or older.
 - b) Be physically or mentally unfit.
 - c) Be receiving Temporary Assistance for Needy Families (TANF) under Title IV of the federal Social Security Act.
 - d) Be employed for a minimum of 20 hours per week.

- e) Be participating in a state or federally financed work-study program during the regular school year, as specified.
 - f) Be a full-time student with a child under age 12.
 - g) Be a part-time student with a child under 6.
 - h) Be a part-time student with a child age 6-11 without adequate childcare.
 - i) Be enrolled in an employment and training or another job-training program, as specified. (7 CFR, 273.5 (a) and (b))
- 3) Establishes the CalFresh program to administer the provisions of federal SNAP benefits to low-income families and individuals meeting specified criteria. (WIC § 18900 et seq.)
 - 4) States Legislative intent to clarify educational policies for purposes of improving access for low-income students to the CalFresh program. (Education Code (EC) § 69519.3 (a))
 - 5) Authorizes the Cal Grant program, administered by the California Student Aid Commission, to provide grants to financially needy students to attend a college or university. (EC § 69430-69433)
 - 6) Requires that the commission notify a Cal Grant award recipient, whose grant includes an amount of funding that has been derived from the TANF block grant or state match in order for the student to verify that they qualify for the exemption from the CalFresh program student eligibility rules. (EC § 69519.3 (c))
 - 7) Establishes the California Community Colleges (CCC), under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. It further requires community college districts to charge students an enrollment fee of \$46 per unit per semester, but provides that a student meeting certain requirements that include among other things, being a recipient of TANF benefits at the time of enrollment, qualify for a fee waiver. (EC § 66010 (a), 66700, and 76300 et al.)

ANALYSIS

This bill:

- 1) Requires the commission to provide, in addition to current law requirements, written notice to students who may qualify for CalFresh benefits under other exemptions permitted by federal regulations and to the extent the commission possesses pertinent information.

- 2) Provides that the notice from the commission be considered verification that the student is receiving the benefit specified in the notice for purposes of the CalFresh program.
- 3) Specifies that the commission is not required to provide more than one written notice to a student who is eligible for notification.
- 4) Requires that the commission confer with legislative staff and advocates on a quarterly basis, at a minimum, to implement the bill's provisions and to continuously improve the process of securing CalFresh benefits for eligible students.
- 5) Requires the California Community College, Board of Governors to adopt regulations so that a student who qualifies for the specified enrollment fee waiver and whose household income is below 200 percent of the federal poverty level, may also qualify for CalFresh benefits to the maximum extent permitted by federal law.
- 6) States that it is the Legislature's intent to enact legislation through the annual Budget Act or another measure for purposes of providing allocations to community college districts to incentive students to apply for CalFresh benefits.

STAFF COMMENTS

- 1) **Need for the bill.** According the author, "current law does not require that the California College Promise Grant be formulated in such a way to maximize student participation in the CalFresh program." The author further asserts that, "Current law also does not require that the Commission inform students of the type benefit they are getting that would meet the federal student exemption from the 20-hour work requirements for students in CCC, University of California (UC) or California State University (CSU) campuses."

This bill seeks to increase student participation in the CalFresh program by using existing information to help identify and notify students that they may be eligible for that benefit. The bill also aims to improve access to CalFresh benefits for a subset of community college students who are fee waiver recipients by requiring the adoption of regulations for purposes of aligning qualifications for the two benefits.

- 2) **State aid falls short.** Student aid programs (i.e. Cal Grant) largely cover tuition costs but fall short of helping students pay for other costs associated with college attendance such as food and housing. The need gap has had a significant impact on low-income families. The Institute for College Access and Success highlights this point in their report, "*Charting the Course for Redesigning Financial Aid in California*," released October 2019. According the report, public college students in California from families with \$30,000 or less in household income typically pay no tuition after grants and scholarships, but they still have to spend about half or more of their entire family income for other costs not covered by aid. Estimates by the commission project that, for 2019-20, non-tuition costs, such as food, books and housing, will exceed \$22,000 for students who live off campus across

all types of institutions. These numbers are particularly concerning for community college students where hunger, or food insecurity, affects up to two-thirds of students (based on CCC student survey). The COVID-19 pandemic has exacerbated the need for additional resources. Finding ways to connect students with other social safety net resources, such as CalFresh benefits, have gained momentum in response to this issue.

- 3) **Federal rules disqualify students from eligibility.** CalFresh is California's version of the federal SNAP program, which provides monthly food benefits to qualified low-income individuals and families to assist them with purchasing the food they need to maintain adequate nutrition levels. It is administered by California Department of Social Services (CDSS) at the state level and California's 58 counties are responsible for administering CalFresh at the local level. CalFresh benefits are 100 percent federally funded and national income eligibility standards and benefit levels are established by the federal government.

However, student eligibility for CalFresh is constrained based on a number of factors that essentially disqualify most full-time college students from benefits unless they qualify for one of several exemptions. These exemptions include, being employed at least 20 hours per week, being approved and anticipate participating in a work study program, being responsible for the care of a child, attending school as part of an employment and training program or participating in a program to improve employability, or receiving TANF funding. The CDSS estimates the annualized average number of students receiving CalFresh food benefits to be 127,630 and the total number of students likely eligible for states to be between 416,471. Consequently, student eligibility is complicated and presumably contributes to low participation rates.

- 4) **CalFresh student data workgroup findings.** SB 77 (Committee on Budget and Fiscal Review, Ch. 53, Statutes of 2019) directed CDSS in consultation with UC, CSU and CCCs, to assess the effectiveness of the federal CalFresh program in serving low-income college students and provide recommendations. The report including the following findings for improving access to college students:

- Continued collaboration of CDSS, the three public postsecondary segments, county Health and Human Service Agencies and food security advocates.
- Collaborate to support targeted CalFresh outreach and develop integrated messaging to address food insecurity among students.
- Leverage data and technology to enhance targeted outreach.
- Streamline the CalFresh application process with college forms.
- Utilize student data to inform decision makers about necessary federal law changes to improve SNAP participation.

- 5) **Net impact.** Existing state law requires the commission to provide written notice verifying receipt of a TANF-funded Cal Grant. Low-income community college students are not eligible for TANF-funded Cal Grant since their tuition is waived through a different program. This bill aims to increase student participation,

particularly from community college students, in the CalFresh program by leveraging the CCC fee waiver in a similar way to identify eligible individuals. However, it's unclear whether the Board of Governors has the ability to qualify fee waiver recipients for CalFresh benefits. Committee staff understands that CDSS and the CCC Chancellor's office have explored this option and have yet find a path forward. The author may wish to consider CalFresh workgroup recommendations for streamlining the CalFresh application process for community college students in lieu of statutorily imposing a solution that may be unworkable. For these reasons **staff recommends that the bill be amended** to strike EC section 76300 (h)(6) of the bill and instead require, the Chancellor's office to develop documents that can be used by students and college administrators as verification that a student meets the criteria for an exemption from the CalFresh program student eligibility rules provided for in federal regulations.

This bill additionally requires the commission to provide written notice should a student qualify for another exemption to the federal rule. The universe of students that could receive a notice expands, so long as the commission possesses relevant information. The bill is silent on the type of information.

- 6) **Federal changes temporarily waive student eligibility rules.** The COVID-19 relief bill (H.R. 133) passed by Congress in December makes it much easier for college students to access the CalFresh program as long as the federal emergency related to Covid-19 is in place. Specifically, the changes allow students that are eligible to participate in Federal Work Study during the regular school year and students with an expected family contribution (EFC) of \$0 in the current academic year, which translates to an annual income of \$11,000 approximately. In California, the commission establishes who has an EFC for purposes of determining student aid. Due to the federal changes, the commission is currently working with CDSS to identify strategies in data-sharing and student outreach that can assist in maximizing enrollment in CalFresh.
- 7) **Prescriptive requirements.** This bill requires the commission to confer with legislative staff and certain advocates on a quarterly basis. Given the Commission is a relatively small agency, this requirement seems disproportionate from its primary responsibility of administering the Cal Grant program. Additionally, CalFresh is administered by CDSS and county health departments and their participation may be prudent and necessary in the future. For these reasons, **staff recommends that the bill be amended** to specify that the California Student Aid Commission confer with *stakeholders* rather than the prescribed groups and confer on *at least an annually basis* rather than quarterly.

SUPPORT

AFSCME, AFL-CIO
California Catholic Conference
Los Angeles County Office of Education

OPPOSITION

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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|--------------------|------------------|----------------------|----------------|
| Bill No: | SB 26 | Hearing Date: | March 10, 2021 |
| Author: | Skinner | | |
| Version: | December 7, 2020 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Lynn Lorber | | |

Subject: Collegiate athletics: student athlete compensation and representation.

NOTE: This bill has been referred to the Committees on Education and Judiciary. A "do pass" motion should include referral to the Committee on Judiciary.

SUMMARY

This bill expands the existing authority for a collegiate student athlete to receive compensation to also include compensation earned from the use of the student's athletic reputation, and moves up the implementation date of existing statutes relative to compensation earned from the use of a student athlete's name, image, or likeness.

BACKGROUND

Existing law, *beginning January 1, 2023*:

- 1) Prohibits a postsecondary educational institution from upholding any rule, requirement, standard, or other limitation that prevents a student athlete from earning compensation as a result of the use of the student's name, image, or likeness. (Education Code § 67456)
- 2) Prohibits an athletic association, conference, or other group or organization with authority over intercollegiate athletics, such as the National Collegiate Athletic Association (NCAA), from earning this compensation. (EC § 67456)
- 3) Prohibits an athletic association, conference, or other group or organization with authority over intercollegiate athletics, such as the NCAA, from preventing a postsecondary educational institution from participating in the association, conference, or organization as a result of its student athletes earning such compensation. (EC § 67456)
- 4) Prohibits a student athlete from entering into a contract providing compensation to the athlete for use of the athlete's name, image, or likeness if a provision of the contract is in conflict with a provision of the athlete's team contract. (EC § 67456)
- 5) Prohibits a collegiate athletic team contract from preventing a student athlete from using the athlete's name, image, or likeness for a commercial purpose when the athlete is not engaged in official team activities. (EC § 67456)

- 6) Requires a student athlete to disclose the contract to an official of the institution, to be designated by the institution. (EC § 67456)
- 7) Prohibits such compensation from affecting a student's scholarship eligibility. (EC § 67456)
- 8) Prohibits a prospective student athlete from receiving this compensation. (EC § 67456)
- 9) Defines a "postsecondary educational institution" as any campus of the University of California or the California State University, an independent institution of higher education, or a private postsecondary educational institution. (EC § 67456)

ANALYSIS

This bill expands the existing authority for a collegiate student athlete to receive compensation to also include compensation earned from the use of the student's athletic reputation. Specifically, this bill:

- 1) Expands the following provisions to also include *athletic reputation*:
 - a) The prohibition on a postsecondary educational institution from upholding any rule, requirement, standard, or other limitation that prevents a student athlete from earning compensation.
 - b) The prohibition on an athletic association, conference, or other group or organization with authority over intercollegiate athletics, such as the NCAA, from earning this compensation.
 - c) The prohibition on an athletic association, conference, or other group or organization with authority over intercollegiate athletics, such as the NCAA, from preventing a postsecondary educational institution from participating in the association, conference, or organization as a result of its student athletes earning such compensation.
 - d) The prohibition on a student athlete from entering into a contract providing compensation if a provision of the contract is in conflict with a provision of the athlete's team contract.
 - e) The requirement for a student athlete to disclose the contract to an official of the institution, to be designated by the institution.
 - f) The prohibition on a collegiate athletic team contract from preventing a use of student athlete's characteristics for a commercial purpose when the athlete is not engaged in official team activities.
 - g) The prohibition on a prospective student athlete from receiving this compensation.

- 2) Moves up by one year the implementation date of existing statutes relative to compensation as a result of the use of the student's name, image, or likeness (from January 1, 2023, to January 1, 2022), or to when rule changes adopted by the Board of Governors of the NCAA to allow student athletes to receive compensation for third-party endorsements take effect, whichever occurs first.
- 3) Prohibits a postsecondary educational institution from denying a student athlete any rights provided to other college students at the institution, except in relation to recruitment.
- 4) Establishes remedies by authoring a student athlete who prevails in an action brought against an institution for a violation of this bill to recover reasonable attorney's fees and court costs, in addition to any damages or equitable relief, against the institution.
- 5) Includes a severability clause, whereby if any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.
- 6) Names the provisions affected by this bill as the "Fair Pay to Play Act."

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "With Gov. Newsom's signature of SB 206 (Skinner, 2019), California became the first state to pass legislation to address the massive inequity in college sports, a huge industry in which everyone involved — colleges, universities, the NCAA, media and large corporations — pocket billions of dollars each year, while student athletes are excluded from any of that wealth. SB 206 gave college athletes the right to earn compensation from their name, image, and likeness (NIL), for example, from endorsement and sponsorship deals, and allowed college athletes to operate a business or take jobs as a coach or instructor.

"SB 206 contained a delayed effective date (1/1/23) to give colleges and the NCAA time to adjust. However, since the passage of SB 206, five other states have enacted comparable laws, with Florida's NIL law slated to take effect first — on July 1, 2021. Additionally, the NCAA, the national governing body for intercollegiate college sports, has proposed rule changes that could take effect prior to SB 206 taking effect. As a result, California college athletes, and its colleges and universities, could be at a disadvantage to states whose NIL rules take effect earlier. Further, if California does not change the effective date of SB 206, then our colleges and universities may have to implement new NCAA rules until the time California's NIL law takes effect, requiring colleges to later redo their rules to accommodate our own state's law."

- 2) ***Name, image, likeness, and reputation.*** The provisions of this bill that allow student athletes to receive compensation earned from the use of the student's athletic reputation, as well as existing law related to compensation earned from name, image, and likeness, are consistent with pending changes in NCAA

bylaws for Division 1 athletics. Specifically, proposed changes include:

- a) ~~12.4.1.1 Athletics Reputation. Such compensation may not include any remuneration for value or utility that the student-athlete may have for the employer because of the publicity, reputation, fame or personal following that he or she has obtained because of athletics ability.~~
- b) ~~12.4.2.1 Fee for Lesson Instruction. A student-athlete may receive compensation for teaching or coaching sport skills or techniques in his or her sport on a fee-for-lesson basis, provided: [R]~~
~~(a) Institutional facilities are not used;~~
~~(b) Playing lessons shall not be permitted;~~
~~(c) The compensation is paid by the lesson recipient (or the recipient's family member) and not another individual or entity;~~
~~(d) Instruction to each individual is comparable to the instruction that would be provided during a private lesson when the instruction involves more than one individual at a time; and~~
~~(e) The student-athlete does not use his or her name, picture or appearance to promote or advertise the availability of fee-for-lesson sessions.~~
- c) **12.4.2.1 Use of Name, Image or Likeness in Business Activities. A student-athlete may use his or her name, image and likeness to promote his or her athletically and non-athletically related business activities (e.g., products, services, personal appearances). A student-athlete's promotion of his or her business activity may include a reference to the student-athlete's involvement in intercollegiate athletics and a reference to the institution he or she attends, consistent with institutional policies applicable to any student; however, no institutional marks may be used in such promotional activities.**
- d) **12.4.2.1.5 Fee-for-Lesson Instruction. A student-athlete may receive compensation for teaching or coaching sport skills or techniques in his or her sport on a fee-for-lesson basis and may use his or her name, picture or appearance to promote or advertise the availability of such lessons, subject to the following conditions: [R]**
(a) If institutional facilities are used, applicable institutional processes for renting facility space in a manner consistent with the general public apply;
(b) Playing lessons shall not be permitted;
(c) Compensation is paid by the lesson recipient (or the recipient's family member) and not another individual or entity; and
(d) Instruction to each individual is comparable to the instruction that would be provided during a private lesson when the instruction involves more than on individual at a time.
- e) ~~12.4.2.3 Athletics Equipment Sales. A student-athlete may not be employed to sell equipment related to the student-athlete's sport if his or her name, picture or athletics reputation is used to advertise or promote~~

~~the product, the job or the employer. If the student-athlete's name, picture or athletics reputation is not used for advertising or promotion, the student-athlete may be employed in a legitimate sales position, provided he or she is reimbursed at an hourly rate or set salary in the same manner as any nonathlete salesperson.~~

- f) ~~12.4.4 Self-Employment. A student-athlete may establish his or her own business, provided the student-athlete's name, photograph, appearance or athletics reputation is not used to promote the business.~~
- g) 15.2.7 Employment. Earnings from a student-athlete's on- or off-campus employment that occurs at any time is exempt and is not counted in determining a student-athlete's cost of attendance or in the institution's financial aid limitations, *provided*:
- ~~(a) The student-athlete's compensation does not include any remuneration for value or utility that the student-athlete may have for the employer because of the publicity, reputation, fame or personal following that he or she has obtained because of athletics ability;~~
- ~~(b) The student-athlete is compensated only for work actually performed; and~~
- ~~(c) The student-athlete is compensated at a rate commensurate with the going rate in that locality for similar services. (see Bylaw 12.4).~~
- 3) **Earlier implementation date.** Existing law that allows a student athlete to receive compensation as a result of the use of the student's name, image, or likeness does not become effective until January 1, 2023. This bill moves up the implementation date by one year, to January 1, 2022.

The author wishes to change the implementation date of California's statutes to more closely align with the July 1, 2021, effective date of Florida's new laws relative to compensation earned from a student athlete's name, image, and likeness. Additionally, the proposed changes to NCAA bylaws would likely become effective prior to California's current implementation date of January 2023.

Will postsecondary educational institutions be prepared to meet the requirements of existing law a year prior to when they expected to do so? Will the NCAA bylaws be adopted as proposed, and will they be adopted for implementation prior to January 1, 2023?

- 4) **Treat athletes the same as other students.** This bill prohibits a postsecondary educational institution from denying a student athlete any rights provided to other college students at the institution, except in relation to recruitment. The author's intent is to address multiple provisions in proposed NCAA bylaws that restrict some activities related to earning compensation, such as the authority for a student athlete to teach or coach a sport on a fee-for-lesson basis, but only if paid by the recipient of the lesson or recipient's family. This would preclude a non-profit organization from paying for lessons for a group of low-income children, for example.

Should the prohibition against denying rights to student athletes be limited to issues related to compensation for name, image, likeness, and reputation (to avoid inadvertently exempting student athletes from drug testing, for example)?

Is this concern sufficiently covered by existing law, which states "A postsecondary educational institution shall not uphold any rule, requirement, standard, or other limitation that prevents a student of that institution participating in intercollegiate athletics from earning compensation as a result of the use of the student's name, image, or likeness"?

- 5) **Remedies.** This bill establishes remedies by authoring a student athlete who prevails in an action brought against an institution for a violation of this bill to recover reasonable attorney's fees and court costs, in addition to any damages or equitable relief, against the institution. This bill has been double-referred to the Senate Judiciary Committee for consideration of this provision.

SUPPORT

National College Players Association
Professional Collegiate League
United Steelworkers District 12

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 70
Author: Rubio
Version: March 2, 2021
Urgency: No
Consultant: Lynn Lorber

Hearing Date: March 10, 2021
Fiscal: Yes

Subject: Elementary education: kindergarten.

SUMMARY

This bill requires, beginning with the 2022-23 school year, a student to have completed one year of kindergarten before being admitted to the first grade. Therefore, this bill expands compulsory education to include kindergarten.

BACKGROUND

Existing law:

- 1) Requires every person between the ages of 6 and 18 years to attend school full-time (at least the minimum school day as required by statute and school districts). (Education Code § 48200)
- 2) Requires a student to be admitted to kindergarten if the student will have their 5th birthday on or before September 1. (EC § 48000)
- 3) Authorizes school districts to admit to kindergarten, on a case-by-case basis, a student who will have their 5th birthday during the school year, subject to the following conditions:
 - a) The governing board of the school district determines that the admittance is in the best interest of the student.
 - b) The parent is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance. (EC § 48000)
- 4) Requires a student to be admitted to the first grade if the student will have their 6th birthday on or before September 1. (EC § 48010)

ANALYSIS

This bill:

- 1) Requires, beginning with the 2022-23 school year, a student to have completed one year of kindergarten before being admitted to the first grade.

- 2) Clarifies that a student is to be admitted to the first grade if the student has their 6th birthday on or before September 1 *and* that the student has completed one year of kindergarten.
- 3) Extends to charter school governing bodies the existing authority for a school district governing board to admit a student of a proper age to a class after the first month of a school term.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "... since kindergarten is not mandatory, students that do not attend miss fundamental instruction putting them at a disadvantage in a classroom setting as they enter first grade. This current voluntary participation of kindergarten allows parents to delay their child's entrance into school until the first grade, which leaves students unprepared for the educational environment they will encounter in elementary school. According to the National Education Association, research has shown that kindergartners who miss 10% or more school days have lower academic performance when they reach the first grade. The impact is even greater and more detrimental for students who do not attend kindergarten at all and miss a whole academic school year. In addition, concerns are rising about the opportunity gap being heightened by school closures during the COVID-19 pandemic.

"Moreover, school districts across the state are also experiencing drops in student enrollment. According to a Cal Matters article, the COVID-19 pandemic has led to a record one-year enrollment drop of 155,000 students in California's K-12 public schools, according to new state projections. At the Los Angeles Unified School District, kindergarten enrollment for the 2020-21 academic year has dropped by 14 percent (a decline of 6,000 students). This decline is even more prevalent in the school system's lowest-income neighborhoods, and is about three times as large as in recent years.

"Statistics show that now more than ever, kindergarten attendance is necessary to ensure all students receive critical early instruction to help avoid falling behind. Requiring kindergarten attendance will ensure students are well prepared, set them on track to learn at grade-level pace, and help avoid students fall behind. Kindergarten attendance is also an important aspect in reducing chronic absenteeism and closing the achievement gap."

- 2) ***How many students currently attend kindergarten?*** Kindergarten is considered a grade level, is factored in the calculation of average daily attendance and is included in the academic content standards, curricular frameworks and instructional materials. However, attendance in kindergarten is not mandatory and compulsory education laws begin at age 6.

The California Department of Education (CDE) estimates that, pre-COVID, approximately 95% of eligible students attended kindergarten (public and private kindergarten) and approximately 80% of eligible students attended kindergarten at a public school.

Preliminary enrollment census data shows that, since school closures began in March 2020 due to COVID, enrollment in K-12 public schools have declined by approximately 155,000 students. It is unclear how many of these students would have been enrolled in kindergarten, or which grade they will be enrolled in in the upcoming school year (kindergarten or first grade).

Could this bill address concerns about potentially larger numbers of children entering first grade without having attended kindergarten?

Are schools equipped with sufficient facilities and appropriately credentialed teachers to serve additional students pursuant to this bill?

- 3) **Will all five-year olds be required to attend kindergarten?** No. This bill expands compulsory education laws to require attendance at kindergarten, but does not preclude 5-year-olds from attending transitional kindergarten or preclude six-year-olds from attending kindergarten.
- 4) **Where are five-year olds if not already in kindergarten?** Children who are too young to be admitted to, or whose parents choose not to enroll their child in, kindergarten may currently be served by other types of early education or care programs, such as transitional kindergarten or general child care programs. Those programs differ from kindergarten in which curriculum is offered, staffing ratios, length of program, and other important elements that parents may consider when choosing early education for their children.

Currently, attendance in kindergarten is not mandatory; this bill makes kindergarten attendance mandatory. The enrollment of additional students into kindergarten could affect other programs that may currently be serving these children (not an issue if the children are currently enrolled in transitional kindergarten).

Will programs that are currently serving these children lose enrollment and therefore lose funding?

This bill does not require kindergarten to provide a full-day program, nor does this bill ensure that students who attend kindergarten will have access to full-day programs.

Will students have access to early learning or care programs for the portion of the day those students are not attending kindergarten? Will families find it difficult to piece together part-day kindergarten and part-day wraparound services?

- 5) **Public or private school.** This bill does not require students to attend kindergarten at a public school; parents would retain the option to enroll their five- or six-year old in kindergarten at a private school.
- 6) **Fiscal impact.** According to a Senate Appropriations Committee analysis of a nearly identical bill from 2015, requiring attendance in kindergarten will likely result in increased average daily attendance (ADA) which will drive ongoing costs

in the Proposition 98 Guarantee in the low to mid hundreds of millions beginning in the 2016-17 school year. Within the Guarantee, the increase in ADA would drive cost increases in costs in the state's Local Control Funding Formula (LCFF) and special education program which will absorb much of the increase in the Proposition 98 Guarantee.

That analysis and estimate were based on assumptions that now may alter the fiscal impact of this bill. The 2015 analysis assumed the bill would result in "increased ADA of about 33,000 based on the number of five-year-olds in the state and the number of children enrolled in public kindergarten, *before the implementation of transitional kindergarten*, the [Proposition 98] Guarantee could increase by about \$400 million in the 2016-17 fiscal year." Further, the 2015 analysis notes its "estimate does not take into account children already attending private school kindergarten, or the parents that would choose to send their children to private school if this bill is enacted. Therefore, assuming a smaller increase of ADA of 15,000 is realized in the 2016-17 school year, the Guarantee could increase by about \$220 million." Lastly, the 2015 analysis estimates increases in the LCFF and special education to be roughly between \$144 million and \$320 million depending upon whether the lower or higher estimate of increased ADA is assumed.

- 7) **Related legislation.** AB 966 (Burke) appropriates \$300,000 for the Full-Day Kindergarten Facilities Grant Program. AB 966 is pending in the Assembly Education Committee.
- 8) **Prior legislation.** SB 1153 (Rubio, 2020) was identical to this bill, other than the implementation date. SB 1153 was not heard due to the compressed 2020 legislative session.

AB 713 (Weber, 2015) would have required, beginning with the 2017-18 school year, a student to have completed one year of kindergarten before being admitted to the first grade. AB 713 was held in the Senate Appropriations Committee:

AB 1444 (Buchanan, 2014) would have required, beginning with the 2016-17 school year, a student to have completed one year of kindergarten before being admitted to the first grade. AB 1444 was vetoed by Governor Brown, whose veto message read:

Most children already attend kindergarten, and those that don't may be enrolled in other educational or developmental programs that are deemed more appropriate for them by their families.

I would prefer to let parents determine what is best for their children, rather than mandate an entirely new grade level.

AB 1772 (Buchanan, 2012) would have required, beginning with the 2014-15 school year, a student to have completed one year of kindergarten before being admitted to the first grade. AB 1772 was held in the Assembly Appropriations Committee.

AB 2203 (V. Manuel Perez, 2012) would have expanded compulsory education laws to include five-year olds. AB 2203 was held in the Assembly Appropriations Committee.

AB 1236 (Mullin, 2008) would have expanded compulsory education laws to include five-year olds. AB 1236 was held in the Assembly Appropriations Committee.

SUPPORT

Los Angeles Unified School District (sponsor)
Alhambra Unified School District
Baldwin Park Unified School District
California Charter School Association
California School Employees Association
California State PTA
Central City Association
Charter Oak Unified School District
Covina-Valley Unified School District
El Monte City School District
Garvey School District
Hacienda La Puente Unified School District
Montebello Unified School District
Mountain View School District
Parent Engagement Academy
Rosemead School District
San Diego Unified School District
Temple City Unified School District
UNITE-LA
West Covina Unified School District
An individual

OPPOSITION

None received

-- END --

- 2) Requires, on and after January 1, 2023, the governing board of a school district, county board of education, and governing body of a charter school to make the T1D informational materials accessible to the parent or guardian of a pupil while the pupil is enrolled in kindergarten or when the pupil is first enrolled in elementary school, and while the pupil is enrolled in grade 7.
- 3) Specifies that the information materials provided to parents and guardians of pupils may include, but is not limited to, all of the following:
 - a) A description of T1D.
 - b) A description of the risk factors and warning signs associated with T1D.
 - c) A recommendation regarding those pupils displaying warning signs associated with type 1 diabetes that the parents or guardians of those pupils should immediately consult with the pupil's primary care provider to determine if immediate screening for T1D is appropriate.
 - d) A description of the screening process for T1D and the implications of test results.
 - e) A recommendation that, following a T1D diagnosis, parents and guardians should consult with the pupil's primary care provider to develop an appropriate treatment plan, which may include consultation with and examination by a specialty care provider, including, but not limited to, a properly qualified endocrinologist.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Currently, schools are required to provide information regarding Type 2 Diabetes (T2D) to the parent or guardian of specified incoming students. However, there is no similar requirement to provide information on Type 1 Diabetes (T1D), though symptoms often present in juveniles. T1D is an autoimmune disease that attacks the insulin-producing cells in the pancreas, destroying the body's ability to make insulin. If left untreated, T1D can dramatically impact everyday life, and can even result in death. As the number of Americans diagnosed with T1D continues to increase, it is critical that parents learn the symptoms of both T2D and T1D in order to prevent misdiagnosis. Early diagnosis and treatment for T1D greatly increase the quality of life for these children."
- 2) ***Type 1 diabetes (T1D).*** T1D is an autoimmune disease where the body does not produce enough insulin, which is a hormone that breaks down sugar in the bloodstream. There is no known way to prevent this disease, and neither is there a cure. Effective treatment management requires continuous blood sugar monitoring and lifelong insulin therapy in consultation with an appropriate medical care provider.

- 3) **How prevalent is T1D in California?** Nationally, T1D accounts for about five percent of all cases of diabetes. According to the California Department of Public Health in 2014, about 38,000 Californians were living with T1D. Additionally, new data from the Centers for Disease Control and Prevention (CDC) show that instances of TDI are increasing. According to CDC's 2020 National Diabetes Statistics Report, nearly 1.6 million Americans, including 187,000 children, were diagnosed with T1D in 2020, an increase of nearly 30 percent from 2017.
- 4) **T1D Screening.** T1D can develop at any age. Affected individuals are usually diagnosed in childhood or early adolescence. The onset of T1D can be detected by blood tests and urine tests. These include tests to detect antibodies that are associated with this disorder, and tests to measure the levels of sugar in the bloodstream.
- 5) **Which grades would receive the factsheet?** This bill requires schools to develop type 1 diabetes informational materials for pupils in kindergarten or upon first enrollment in elementary school, and again in grade 7. T1D is typically diagnosed in childhood, most commonly around age 14. However, medical tests can identify T1D in children much earlier in life. The availability of the informational materials in the earlier grades facilitates early detection of the disease and improves the quality of life for patients. Additionally, existing law already requires the CDE to provide schools with a T2D informational materials for the parents or guardians of incoming 7th graders. Providing the informational materials for T1D concurrently with T2D in grade 7 reinforces educational themes around health, nutrition, metabolism and hereditary illnesses.
- 6) **Related legislation.** SB 1281 (Roth), 2020) was substantially similar to this bill, except the date requirement was one year earlier. SB 1281 was not heard by this committee due to the COVID-19 shortened legislative year.

SB 138 (Roth, 2019) was substantially similar to this bill, but did not include county offices of education. SB 138 died in the Assembly Appropriations Committee.

AB 2226 (Garcia), Chapter 235, Statutes of 2006, requires, on or after July 1, 2010, school districts to provide an information sheet regarding T2D, as specified, to the parent or guardian of incoming 7th grade pupils, and requires the California Department of Education to develop that information sheet.

SUPPORT

California School Boards Association
EaseT1D.org
Riverside County Office of Education

OPPOSITION

None received

SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 291 **Hearing Date:** March 10, 2021
Author: Stern
Version: February 1, 2021
Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: Advisory Commission on Special Education: pupil advisory council.

SUMMARY

This bill establishes an advisory council of pupils with exceptional needs to provide input to the Advisory Commission on Special Education (ACSE) and adds a member of the pupil advisory council to the ACSE.

BACKGROUND

Existing law:

- 1) Establishes the ACSE as an entity in state government that studies and provides assistance and advice to the State Board of Education (SBE), the Superintendent of Public Instruction (SPI), the Legislature, and the Governor in research, program development, and evaluation in special education.
- 2) Specifies that the ACSE consist of 17 members as follows:
 - a) A Member of the Assembly appointed by the Speaker of the Assembly.
 - b) A Member of the Senate appointed by the Senate Committee on Rules.
 - c) Three public members appointed by the Speaker of the Assembly, two of whom shall be individuals with a disability or parents of pupils in either a public or private school who have received or are currently receiving special education services due to a disabling condition.
 - d) Three public members appointed by the Senate Committee on Rules, two of whom shall be individuals with a disability or parents of pupils in either a public or private school who have received or are currently receiving special education services due to a disabling condition.
 - e) Four public members appointed by the Governor, two of whom shall be parents of pupils in either a public or private school who have received or are currently receiving special education services due to a disabling condition.
 - f) Five public members appointed by the State Board of Education, upon the recommendation of the Superintendent or the members of the State Board of Education, three of whom shall be parents of pupils in either a public or

private school who have received or are currently receiving special education services due to a disabling condition, and one of whom shall be a representative of the charter school community.

- 3) Requires ACSE members to be selected to ensure the body is representative of the state population, composed of individuals involved in, or concerned with, the education of children with exceptional needs, and include a majority of members with exceptional needs or parents of children with exceptional needs who are age's birth to 26 years, inclusive.
- 4) Requires the ACSE to comment publicly on any rules or regulations proposed by the state regarding the education of individuals with exceptional needs and advise the SPI in developing: (1) evaluations and reporting on data to the Secretary of Education in the United States Department of Education, (2) corrective action plans to address findings identified in federal monitoring reports under the Individuals with Disabilities Education Act, and (3) policies relating to the coordination of services for individuals with exceptional needs.
- 5) Requires the ACSE to report to the SBE, the SPI, the Legislature, and the Governor at least once per year on the following:
 - a) Activities enumerated in state law that are necessary to be undertaken regarding special education for individuals with exceptional needs.
 - b) The priorities and procedures utilized in the distribution of federal and state funds.
 - c) The unmet educational needs of individuals with exceptional needs within the state.
 - d) Recommendations relating to providing better education services to individuals with exceptional needs.

ANALYSIS

This bill:

- 1) Establishes an advisory council composed of 15 pupils with exceptional needs for the purpose of providing the ACSE with advice and input from current pupils with exceptional needs.
- 2) Requires the SBE to identify and nominate a pool of qualified candidates for appointment to the council by the SPI.
- 3) Specifies that each member of the advisory council shall be a pupil with exceptional needs who is age 16 to 24, inclusive, drawn from and representative of all geographic regions of the state, and serve a term of two years.
- 4) Requires the council to meet on a regular basis in meetings open to the public, except that the council may conduct its public meetings virtually.

- 5) Requires the council to appoint one of its members to serve as a member of the ACSE for one calendar year.
- 6) Increases the number of members on the ACSE from 17 to 18 by adding a member of the pupil advisory council.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Representation matters. The California Advisory Commission on Special Education (ACSE) provides recommendations and advice to the State on new or continuing areas of research, program development and evaluation in California special education.

"However, the people most directly impacted by these policies, students with exceptional needs, have no direct input or representation on the ACSE. This is especially concerning given that approximately one-in-eight California public school students receive special education, yet those same students have no seat at the decision-making table.

"SB 291 will improve California special education by ensuring direct representation and a decision-making role on the California ACSE for current students with exceptional needs. It is also an exciting step that makes California the first state with student voting rights on the ACSE."

- 2) ***Federal law requires the state to maintain a special education advisory panel.*** The federal Individuals with Disabilities Education Act (IDEA) makes a free appropriate public education available to eligible children throughout the nation and ensures special education and related services to those who need them. Any state receiving funds authorized through IDEA must establish and maintain an advisory panel to provide policy guidance related to special education and related services for children with disabilities.

California's ACSE is composed of 17 members who are responsible for providing recommendations and advice to the SBE, the SPI, the Legislature, and the Governor in new or continuing areas of research, program development and evaluation in California special education. The author of this bill notes that while members of the ACSE consist of important stakeholders such as parents of students with exceptional needs, there is no direct role for students themselves in this process.

- 3) ***Recent report from the Advisory Commission on Special Education.*** In the late summer or early fall of each calendar year, the ACSE releases an Annual Report of the Commission's work over the previous fiscal year. This report provides information on the year's emphasized themes and highlights the items chosen for the agendas of each of the Commission's five yearly meetings.

The Commission's most recent 2019-20 report highlights, among other things, the unforeseen levels of disruption caused by the novel coronavirus pandemic.

In its overview, the report notes the following, which makes a strong case for including more student voice in improving the state's special education system:

“While creating untold challenges of its own, the pandemic has also served to highlight long-existing inequities and weaknesses in the social, educational, and political systems, both statewide and nationally. The commissioners hope that a renewed and acute awareness of these challenges will serve to strengthen the resolve of policymakers and educators everywhere—redoubling prevention and early intervention efforts and fortifying a continued commitment to creating a coherent and aligned educational system that addresses inequitable practices and improves outcomes for students both with and without disabilities.”

SUPPORT

The Diverse Learners Coalition (sponsor)
California Association of Students Councils
Coalition for Adequate Funding for Special Education
Decoding Dyslexia CA
Eye to Eye

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 330 **Hearing Date:** March 10, 2021
Author: Durazo
Version: March 2, 2021
Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: California Community Colleges: affordable housing.

SUMMARY

This bill expands the ways in which a community college districts can enter a joint occupancy agreement with a private person, firm, or corporation to provide its students and employees with affordable housing developments.

BACKGROUND

Existing law:

- 1) Allows any community college district to enter into real property leases and agreements not exceeding 66 years to be used jointly by the district and any private person, firm, or corporation.
- 2) Allows any community college district to enter into school property leases and agreements not exceeding five years to be used (1) jointly by the district and any city and/or county or (2) solely by a private education institution.
- 3) Allows the governing board of a community college district to lease a property to any private person, firm, or corporation if the lease agreement requires the lessee to construct a building for the joint use of the district and the private person, firm, or corporation provided that (1) the titles for each portion of the building remain exclusive to each entity using the property, and (2) no rental fee or other charge for use of the building shall be paid by the district.
- 4) Prohibits the governing board of a community college district from doing either of the following:
 - a) Making a gift of district real property to any entity that is not an auxiliary organization created by the district to provide supportive services and specialized programs for the general benefit of its colleges.
 - b) Lease real property for less than fair rental value to any entity, unless the entity meets one of the following conditions:
 - i) It is an auxiliary organization created by the district.
 - ii) It is a club, organization, or association formed for recreational, educational, political, economic, artistic, or moral reasons.

- iii) It was in existence on August 31, 1980, and has been or is subsequently recognized by the governing board of a community college district as having a formal relationship with, and working on behalf of, the district or a constituent college.

ANALYSIS

This bill:

- 1) Allows the governing board of a community college district to lease a property to any private person, firm, or corporation for the construction of a building to be operated as affordable housing for district students and/or employees.
- 2) Allows the governing board of a community college district that leases a property to a private person, firm, or corporation for the construction of affordable housing for district students and/or employees to incur a rental fee or other charge for the portion of the building that the district continue to jointly use.
- 3) Extends how long a community college district may enter into a joint occupancy agreement that is intended to provide affordable housing for district students and/or employees from five years to 66 years.
- 4) Allows the governing board of a community college district to lease real property for less than fair rental value to an entity that intends to develop and operate affordable housing for district students and/or employees.
- 5) Clarifies that construction, alteration, demolition, installation, repair, and maintenance work performed to carry out a lease agreement under these provisions is public work for purposes of various existing requirements in the Labor Code.
- 6) Specifies that a lease or agreement entered into pursuant to these provisions shall require the private person, firm, or corporation to certify to the community college district that a skilled and trained workforce will be used to perform all construction work to carry out the lease or agreement, as specified.
- 7) Allows certain provisions of the Public Contract Code and Labor Code to not apply if all contractors and subcontractors performing work to carry out the lease or agreement are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "California faces an unprecedented housing shortage. Particularly hard struck have been California's community colleges. In many community college districts, the high cost of living and lack of affordable housing options present the highest barrier for both the student body and the community college's workforce. Fifty-five percent of Los Angeles

Community College District students currently experience housing insecurity, and nineteen percent will experience homelessness at some point during the year. This lack of access to housing precludes many Californians from higher education and stable employment.

“Despite this, some community colleges possess either unused real property, or facilities that have become too financially burdensome to operate. As of now, however, community college districts are extremely limited in their options to best utilize their surplus land or derelict facilities. These could be repurposed into affordable housing developments and provide much needed relief to both the students and workforce of the community colleges.

“SB 330 amends the Education Code sections concerning joint occupancy to provide more flexibility to community college districts to create affordable workforce and student housing.”

2) ***How community college joint use agreements can benefit students.***

Community college districts commonly pursue creative ways of increasing their revenues by better utilizing their facilities through joint use agreements. Ventures such as performing arts centers, stadiums, shopping centers, restaurants, senior or child care facilities, or administrative spaces can generate significant revenue for colleges, are interesting to developers, and can benefit community college students. For example, a community college district could generate more than one million dollars per year by leasing unused acres of property to a hotel developer. Through the joint occupancy agreement, the project could generate opportunities for student internships, field work, and job placement opportunities. Students and staff could also make use of the project for educational, recreational, or business purposes.

3) ***Housing barriers to college success.*** According to the US Department of Housing and Urban Development, children’s life outcomes, including their success in school, are closely aligned with their housing and neighborhood conditions. Evidence also demonstrates that as students progress to postsecondary education, housing conditions continue to affect their educational success.

Students are disproportionately at risk to experience housing insecurity, and many struggle to find adequate, affordable housing near their campus. Students often lack a rental history, someone to act as a guarantor, or the savings for a security deposit. For many students, living costs exceed the cost of tuition and fees. At community colleges, room-and-board costs on average account for more than two-thirds of the cost. Low-income and some minority students are often reluctant to borrow when grants do not cover their costs, and many college counselors advise these students not to do so.

Colleges also appear to systematically underestimate students’ off-campus living costs, limiting students’ access to federal financial aid. While students can receive federal housing assistance such as Housing Choice Vouchers, specific restrictions apply to students. Students’ eligibility may depend on their parents’

income, whether the student is enrolled full time or part time, and whether the student's household wholly consists of students.

- 4) ***On-campus student housing has not matched increased enrollment.*** Most research on the interaction of housing and college success has considered the benefits of on-campus housing. Students appear to be more likely to graduate if they live on campus, particularly when the on-campus experience encourages student learning and engagement.

American college enrollment has surged over the past two decades. From 1990 to 2012, undergraduate enrollment at degree-granting postsecondary institutions increased by 48 percent, to 17.7 million students in the fall of 2012. About 10.5 million students attend four-year schools and 7.2 million attend two-year institutions. Most undergraduate students live off campus. During the 2011–12 school year, 50.2 percent of undergraduates lived off campus separately from their families and 36.6 percent lived off campus with their families. By comparison, only 13.2 percent of undergraduates lived on campus.

Colleges' on-campus student housing stock has not kept pace with the increase in enrollment. According to Census Bureau data, the number of students living in college dormitories increased only 31 percent from 1990 to 2012, to a total of 2.6 million. At the same time, enrollment at degree-granting institutions increased by 48 percent. Institutions nationwide have long waitlists for on-campus housing, leaving students to search for options off campus. Private developers have filled some of the demand with new off-campus complexes, many of which are luxury buildings.

- 5) ***Determining affordable housing for employees and students.*** As currently drafted, this bill does not include a definition for affordable housing for employees and/or students. Typically, affordable housing is restricted by income limit—specifically, a percentage of area median income. For adults, the state does not generally subsidize housing above 80 percent of an area's median income.

Identifying lower-income students eligible for student housing as permitted under this bill is more difficult to calculate. Many students will not be working full-time jobs, so on paper, nearly all students will appear to be lower-income. One solution could be limiting affordable housing to students that are eligible for a Cal Grant. The Cal Grant Program identifies income ceilings in statute based upon a student's household income and assets, both for new and renewing participants.

If it is the desire of the Committee to pass this measure, ***staff recommends*** defining "affordable housing for students and employees" as a housing development with a majority of its rents restricted to levels that are affordable to low-income students, defined as students not exceeding the income and asset level for the Cal Grant A or Cal Grant B award, or employees of the district meeting the definition of persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

Los Angeles Community College District (Sponsor)
State Building and Construction Trades Council

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

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|--------------------|---------------|----------------------|----------------|
| Bill No: | SB 22 | Hearing Date: | March 10, 2021 |
| Author: | Glazer | | |
| Version: | March 4, 2021 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Ian Johnson | | |

Subject: Education finance: school facilities: Public Preschool, K–12, and College Health and Safety Bond Act of 2022

NOTE: This bill has been referred to the Committees on Education and Governance and Finance. A "do pass" motion should include referral to the Committee on Governance and Finance.

SUMMARY

This bill makes changes to the existing School Facility Program and places the Public Preschool, K-12, and College Health and Safety Bond Act on the ballot for statewide elections in 2022.

BACKGROUND

Existing law establishes the School Facility Program (SFP) under which the state provides general obligation bond funding for various school construction projects, including new construction, modernization, joint-use facilities, and programs to specifically address the construction needs of overcrowded schools, charter schools, career technical education facilities, and seismic mitigation.

The last statewide general obligation bond, Proposition 51, was approved by voters in November 2016. Proposition 51 authorized a total of \$9 billion in state general obligation bond funds—\$7 billion for K-12 education facilities and \$2 billion for community college facilities. Of the \$7 billion for K-12 education, \$3 billion is for new construction, \$3 billion is for modernization, and \$1 billion is for charter schools and vocational education facilities.

ANALYSIS

This bill authorizes \$15 billion for the construction and modernization of public preschool, K-12, community college, University of California (UC), and California State University (CSU) facilities to be placed on the ballot for statewide elections in 2022. Specifically, this bill:

- 1) Increases local bonding capacities for non-unified school districts from 1.25 percent to 2 percent and for unified school districts from 2.5 percent to 4 percent of the taxable property in the district.
- 2) Establishes the 2022 State School Facilities Fund within the state treasury.

- 3) Requires a school district, as a condition of participating in the School Facilities Program, to submit to Office of Public School Construction (OPSC) a five-year facilities master plan approved by the governing board of the school district and to update the plan as appropriate.
- 4) Requires OPSC to prioritize on a quarterly basis the processing of applications as follows:
 - a) First, for health and safety projects.
 - b) Second, for school districts requesting financial hardship assistance.
 - c) Third, for projects addressing lead remediation.
 - d) Fourth, for projects that were submitted, but not processed, in the preceding two quarters.
 - e) Fifth, for projects addressing severe overcrowding.
 - f) Sixth, based on a district's gross bonding capacity and the percentage of students that are low-income, English learners, or foster youth.
- 5) Establishes criteria for determining the state and local share of a school district's project based on the district's gross bonding capacity and the percentage of students that are low-income, English learners, or foster youth.
- 6) Requires school districts electing to participate in the School Facilities Program to submit an updated report of the district's existing school building capacity to the OPSC.
- 7) Authorizes grant funding for new construction projects to be used for infrastructure necessary to provide access to broadband internet, seismic mitigation, construction of a school kitchen, transitional kindergarten classroom, public preschool facility, or a facility to support school nurses and counselors.
- 8) Prohibits grant funding for new construction projects to be used for electronic devices with a useful life of less than three years.
- 9) Allows a school district with a facility located on a military installation to receive a modernization grant to replace portables that are at least ten years old.
- 10) Allows for grant funding under the program to be increased by up to ten percent to reflect the costs to remediate any water outlet used for drinking or preparing food with lead levels in excess of 15 parts per billion.
- 11) Expands school district eligibility for financial hardship assistance by increasing the total bonding capacity limit from \$5 million to \$15 million, adjusted annually for inflation.

- 12) Allows the State Allocation Board (SAB) to provide assistance to districts procuring interim housing to school districts and county offices of education impacted by a natural disaster.
- 13) Requires the SAB to provide a grant to test for lead in water outlets used for drinking water or preparing food that were constructed before January 1, 2010 and for remediation of any water outlet used for drinking or preparing food with lead levels in excess of 15 parts per billion.
- 14) Increases the threshold for implementing unused site fees on school districts from sites valued at \$20,000 to sites valued at \$40,000.
- 15) Requires the Board of Trustees of the CSU and the Regents of the UC, as a condition of receiving funds from the 2022 bond fund, to adopt a five-year affordable student housing plan for each campus.
- 16) Requires the Regents of the UC and Board of Trustees of the CSU, in developing a list of capital projects for consideration in the annual Budget Act, to use each campus's student housing plan as a key input for project prioritization.
- 17) Repeals various obsolete code sections related to the State School Facilities Program.
- 18) Establishes the Public Preschool, K-12, and College Health and Safety Bond Act of 2022 totaling \$15 billion to be allocated as follows:
 - a) \$9 billion for Preschool to Grade 12 school facilities as follows:
 - i) \$2.8 billion for new construction.
 - ii) \$5.2 billion for modernization.
 - iii) \$500 million for charter schools.
 - iv) \$500 million for career technical education.
 - b) \$2 billion for community college facilities.
 - c) \$2 billion for the UC and the Hastings College of the Law.
 - d) \$2 billion for the CSU.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "For the first time in over two decades, California voters rejected a statewide bond, Proposition 13, for public school construction in March 2020. With Proposition 13's defeat, the state has run out of matching funding for school construction. In March, local voters rejected over 60 percent of school bond initiatives, which have historically passed at a much higher rate."

However, since then, public support is growing for improving campus infrastructure: In November 2020, voters decided on 60 local school bond measures and 80% of those measures were approved.

COVID-19 pandemic has highlighted the need for safe school and campus facilities that protect the health of children and staff. Many schools do not have sufficient building space to comply with federal and state reopening guidelines on smaller class sizes. Significant construction, upgrades, and repairs are needed to create larger classrooms, improve ventilation systems, and reduce the risk of transmission in shared spaces.

According to PPIC, about two-thirds of the state's school facilities are more than 25 years old, and research has shown that it would cost over \$117 billion to modernize schools and colleges in the next decade.

Similarly, between the 2015–16 and 2018–19 fiscal years, 108 schools in 60 districts were closed at least once due to poor facility conditions, including gas leaks, heating system failures, broken water pipes, pest infestations, and mold, asbestos, and lead contamination. The majority of these districts (41) are high-need districts, in which more than 55 percent of students are low income, English Learners, experiencing homelessness, or foster youth.

Similarly, since 2006, despite a deteriorated fiscal condition for both the UC and CSU, no higher education-specific bonds have been authorized. The systems currently have identified over \$16 billion in deferred maintenance needs. These include addressing fire, safety, and seismic deficiencies, and to modernize and construct facilities to keep pace with current technology and workforce needs.”

- 2) ***Current status of the School Facilities Program (SFP).*** According to the Office of Public School Construction (OPSC), as of the February 2021 meeting of the State Allocation Board (SAB), approximately \$2.3 billion remains in bond authority in the School Facilities Program (SFP). Of this amount, about \$750 million is new construction, \$1.5 billion is modernization, and the remaining \$50 million is from a variety of smaller programs, including the Career Technical Education and Charter Schools program.

The Office of Public School Construction (OPSC) reported that as of February 2021, they have received just over \$2 billion worth of applications for projects beyond the bond authority that remains in the program. The OPSC will not process applications beyond available bond authority.

- 3) ***Related and prior budget activity.*** Prior to the passage of Proposition 51 and amid concerns about the complexity and structure of the SFP, former Governor Brown called for the state to establish a new school facilities program. The 2016-17 Governor's Budget stated the following:

“The existing school facilities program is overly complex, creating costs for school districts to navigate a process that can involve as many as ten different state agencies. The program creates an incentive for districts to

build new schools when they already have the capacity to absorb enrollment growth, and allocates funding on a first-come, first-served basis, giving districts with dedicated facilities personnel a substantial advantage. Finally, the existing program does not give districts enough flexibility to design school facility plans to reflect local needs. The inherent problems with the current program, along with billions of dollars in long-term liabilities created by the issuance of state debt, is no longer sustainable.”

- 4) ***Previous informational hearing.*** On February 18, 2015, this Committee held a joint informational hearing with the Budget Subcommittee on Education titled *K-12 School Facility Program: History, Current Status, and Future Options*. Among other things, the Committee heard testimony from several participants about the need to simplify the current program processes and regulations, the need for a “one-stop-shop” to assist in navigating the program, and the need for greater flexibility in design of school facilities as well as the use of funding to incentivize and support joint use projects and community schools. Additionally, while the state’s growing debt service is of concern, it was unclear whether local districts have the capacity to generate sufficient revenue at the local level to meet their ongoing facility needs for deferred maintenance, modernization and new construction.
- 5) ***The voters recently rejected a substantially similar measure.*** In 2020, Proposition 13, the \$15 billion school construction bond that went before voters on the March 3 ballot, failed passage with only 47 percent voter support. As currently drafted, this measure is substantially similar to Proposition 13.

Supporters of Proposition 13 claim that the specific circumstances surrounding the bond—potential confusion with Proposition 13 of 1978, tax fatigue, and the coronavirus—are to blame for its’ failure. Supporters do not believe that the measure’s result is an indication of changing voter sentiment regarding school bonds, interest in investing in education generally, or a flaw with the existing School Facility Program.

Opponents of Proposition 13, such as the Howard Jarvis Taxpayers Association, appear to interpret the measure’s defeat differently. Because the measure would have raised the cap on how much school districts can raise through property taxes, the opponents were able to argue that the measure itself would have raised property taxes. However, the measure would not have raised property taxes upon being approved. Only after school districts subsequently passed their own local construction bonds and received matching funds from the state would property taxes have increased at the local level.

- 6) ***Prior legislation.***

Chapter 530, Statutes of 2019 (AB 48, O’Donnell) was substantially similar to this bill. However, the measure was not adopted by the voters at the March 3, 2020 statewide primary election and its provisions did not take effect.

AB 13 (Eggman) places the Higher Education Facilities Bond Act of 2020 on the November 3, 2020, statewide general election. The bill proposes \$2 billion for University of California (UC) facilities, \$2 billion for California State University (CSU) facilities and \$3 billion for new CSU campuses. The bill was held in the Assembly Higher Education Committee.

SB 14 (Glazer) places the Higher Education Facilities Bond Act of 2020 on the March 3, 2020 statewide primary election. The bill proposes \$4 billion each for UC and CSU facilities. The bill is pending in the Assembly.

AB 1088 (O'Donnell) would have placed the Kindergarten-University Public Education Facilities Bond Act on an unspecified ballot. The author held the bill in the Assembly Appropriations Committee in 2015.

AB 148 (Holden) would have placed the K-14 School Investment Bond Act of 2016 with unspecified dollar amounts on the November 8, 2016 statewide ballot. The bill was held in the Assembly Appropriations Committee suspense file in 2015.

AB 1433 (Gray) would have placed the Recommitment to Higher Education Bond Act of 2016 with unspecified amounts for higher education facilities on the November 8, 2016 statewide general election. The bill was held in the Assembly Appropriations Committee suspense file in 2015.

SB 114 (Liu) would have placed the Kindergarten Through Grade 12 Public Education Facilities Bond Act of 2016 with unspecified dollar amounts on the November 8, 2016 ballot. The bill failed passage on the Senate Floor in 2015.

AB 2235 (Buchanan) would have authorized the Kindergarten-University Public Education Facilities Bond Act of 2014 to provide for the issuance of \$4.3 billion in G.O. bonds for construction and modernization of school facilities, to become effective only if approved by voters at the November 4, 2014, statewide general election. The bill also made changes to the School Facilities Program (SFP). The bill was held on the Senate Floor by the author in 2014.

AB 41 (Buchanan), introduced in 2013, expresses the Legislature's intent to place a Kindergarten-University facilities bond on the 2014 ballot. The bill was held by the author in the Assembly Education Committee.

SB 45 (Corbett), introduced in 2013, expresses the Legislature's intent to place a Kindergarten-University facilities bond on the next statewide general election. The bill was held by the author in the Senate Rules Committee.

SB 301 (Liu), introduced in 2013, expresses the Legislature's intent to place a Kindergarten-University facilities bond on the 2014 ballot. The bill was held by the author in the Senate Rules Committee.

AB 331 (Brownley), introduced in 2011, expressed the Legislature's intent to place a Kindergarten-University facilities bond on the 2012 ballot. The bill was held in the Assembly Appropriations Committee in 2012.

AB 822 (Block), introduced in 2011, would have placed a higher education facilities bond on the November 2012 ballot. The bill was held in the Assembly Appropriations Committee in 2012.

AB 220 (Brownley), introduced in 2009, would have placed a \$6.1 billion Kindergarten-University facilities bond on the November 2010 ballot. The bill was held in the Senate Appropriations Committee.

SB 271 (Ducheny), introduced in 2009, would have placed an \$8.6 billion higher education facilities bond on the November 2010 ballot. The bill was held in the Senate Appropriations Committee.

SUPPORT

California State University
Riverside County Superintendent of Schools
Riverside County Public K-12 School District Superintendents
Silicon Valley Leadership Group
University of California

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 217 **Hearing Date:** March 10, 2021
Author: Dahle
Version: January 13, 2021
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education .

SUMMARY

This bill amends the California Healthy Youth Act by: (1) requiring local educational agencies (LEAs) to adopt a policy at a publicly noticed meeting specifying how parents and guardians of pupils may inspect the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education, and (2) requiring all written and audiovisual educational materials available for inspection to be translated.

BACKGROUND

Existing law:

- 1) Establishes the California Healthy Youth Act (CHYA), which requires schools operated by school districts (defined as school districts, charter schools, county boards of education, county superintendents of schools, and the California Schools for the Deaf and for the Blind – hereafter referred to as “LEAs”), to provide comprehensive sexual health and HIV prevention instruction to all students in grades 7 to 12, at least once in middle school and once in high school. (Education Code § 51933)
- 2) Requires that pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education at least once in junior high or middle school and at least once in high school. (EC § 51934)
- 3) Requires that the instruction and related instructional materials be, among other things:
 - a) Age appropriate.
 - b) Medically accurate and objective.
 - c) Appropriate for use with pupils of all races, genders, sexual orientations, and ethnic and cultural backgrounds, pupils with disabilities, and English learners.

- d) Made available on an equal basis to a pupil who is an English learner, consistent with the existing curriculum and alternative options for an English learner pupil.
 - e) Accessible to pupils with disabilities. (EC § 51934)
- 4) Authorizes an LEA to provide comprehensive sexual health education and HIV prevention education earlier than grade 7 using instructors trained in the appropriate courses and age-appropriate and medically-accurate information. (EC § 51933)
- 5) Requires LEAs, at the beginning of each school year, or, for a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment, to provide parents and guardians with a notice:
- a) About instruction in comprehensive sexual health education and HIV prevention education and research on pupil health behaviors and risks planned for the coming year.
 - b) Advise the parent or guardian that the educational materials used in sexual health education are available for inspection.
 - c) Advise the parent or guardian whether the comprehensive sexual health education or HIV prevention education will be taught by school district personnel or by outside consultant, as provided.
 - d) Advise the parent or guardian that the parent or guardian has the right to excuse their child from comprehensive sexual health education and HIV prevention education and that in order to excuse their child they must state their request in writing to the LEA. (EC § 51938)
- 6) Provides that the parent or guardian of a pupil has the right to excuse their child from all or part of that education, including related assessments, through a passive consent ("opt-out") process. (EC § 51938)
- 7) Prohibits a school district from requiring active parental consent ("opt-in") for sexual health education for pupils of any grade. (EC § 51938)
- 8) Requires all notices, reports, statements, and records sent to the parent or guardian of any pupil by the public school or school district, if 15 percent or more of the pupils enrolled in a public school that provides instruction in kindergarten or any of grades 1 to 12, inclusive, speak a single primary language other than English, as determined from the census data submitted to the California Department of Education (CDE) in the preceding year, to be written in that primary language, in addition to English, and may be responded to either in English or the primary language. (EC § 48985)

ANALYSIS

This bill amends the California Healthy Youth Act by: (1) requiring local educational agencies (LEAs) to adopt a policy at a publicly noticed meeting specifying how parents and guardians of pupils may inspect the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education, and (2) requiring all written and audiovisual educational materials available for inspection to be translated. Specifically, this bill:

- 1) Requires LEAs to adopt a policy at a publicly noticed meeting specifying how parents and guardians of pupils may inspect the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education that is consistent with all of the following:
 - a) The materials, including applicable translations, shall be made available at each schoolsite and publicly posted on the LEA's internet website, if the LEA maintains an internet website or upon establishing an internet website.
 - b) If the LEA is not authorized to post the materials on its publicly available internet website due to copyright protections, the material shall be made available through a parent or guardian portal if the school district already maintains a portal or upon establishing a portal.
 - c) The materials and updates or changes to the materials, including applicable translations, shall be made available at each schoolsite and publicly posted on the LEA's internet website, and, if applicable, through a parent or guardian portal, within 30 days of adoption of the policy, but in no event later than 14 days before the instruction is given.
 - d) Updates or changes to the materials, including applicable translations, shall be made available at each schoolsite and publicly posted on the LEA's internet website, and, if applicable, through a parent or guardian portal, within 30 days of adoption of the updates or changes to the materials, but in no event later than 14 days before the instruction is given.
 - e) If a school district contracts with outside consultants or guest speakers, the materials, including applicable translations, to be used by the outside consultants or guest speakers shall be made available at each schoolsite and publicly posted on the LEA's internet website, and, if applicable, through a parent or guardian portal, within 30 days of contracting with the outside consultants or guest speakers, but in no event later than 14 days before the instruction is given.
 - f) Specifically for outside consultants or guest speakers that were contracted for before January 1, 2022, the materials, including applicable translations, to be used by be made available at each schoolsite and publicly posted on the LEA's internet website, and if applicable, through a parent or guardian portal, pursuant to subparagraph (A), within 30 days of adoption of the policy, but in no event later than 14 days before the instruction is given.

- 2) Applies these requirements to materials adopted by the governing board of the school district before January 1, 2022.
- 3) Requires LEAs to translate the written and audiovisual educational materials used in the comprehensive sexual health education if 15 percent or more of the pupils enrolled in a public school that provides instruction in kindergarten or any of grades 1 to 12, inclusive, speak a single primary language other than English, as determined from the census data submitted to the CDE in the preceding year.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "This bill makes instructional materials more transparent and provides access for parents of school aged children enrolled in public and charter schools. Specifically, it requires school districts to make any adopted curriculum available on their websites, while ensuring there is also reasonable accommodation for non-English speaking parents to provide resources in the appropriate language spoken by those parents."
- 2) **History of the California Healthy Youth Act.** The CHYA took effect in 2003 and was originally known as the Comprehensive Sexual Health and HIV/AIDS Prevention Education Act. Initially, the act authorized local educational agencies (LEAs) to provide comprehensive sexual health education in any grade, including kindergarten, so long as it consisted of age-appropriate instruction and used instructors trained in the appropriate courses. Beginning in 2016 with AB 329 (Weber, 2015) the act was renamed the CHYA and for the first time required LEAs, excluding charter schools, to provide comprehensive sexual health education and HIV prevention education to all students at least once in middle school and at least once in high school. Beginning this year, SB 2601 (Weber, 2019) requires charter schools to provide that same instruction. Throughout this time, from its inception in 2003 through today, the CHYA has always afforded parents the right to opt their child out of part, or all, of the instruction and required LEAs to notify parents and guardians of this right. Parents and guardians are able to exercise this right by informing the LEA in writing of their decision.
- 3) **Teen pregnancies are at an all-time low in California.** According to data released by the California Department of Public Health (CDPH) in 2019, California's teen birth rate for ages 15 to 19 fell from 46.7 per 1,000 births in 2000 to 13.9 per 1,000 births in 2017, the most recent year of data. Additionally, for teenagers younger than 15, the total number of births has decreased from 895 in 2000 to just 153 in 2017. These decreases are exceedingly important. According to the CDPH, "compared with births to adult women, infants born to adolescents are at greater risk for preterm birth, low birthweight, and death during infancy. Childbearing in adolescence has been associated with decreased likelihood of school completion and post-secondary education, decreased likelihood of future employment, and greater dependence on public assistance. Moreover, adolescent childbearing often leads to a cycle of disadvantage and poverty."

4) **Why are teen pregnancy rates decreasing?** According to the CDPH, “On a national level, evidence suggests that adolescent birth rates are declining largely because more youth are using contraception, including long-acting reversible contraception, known as LARC methods. Additionally, according to the CDPH, “youth also appear to be delaying sexual intercourse, although this accounts for much less of the decline. Public health prevention, evidence-based education and support programs, and increased outreach around youths’ rights and improved access to sexual and reproductive health clinical services have contributed to these successes. Other contributing factors include declines in fertility rates during the recession. Finally, the CDPH has specifically cited the CHYA as an example of one of California’s innovative sexual health policies that help create a multi-pronged approach for promoting adolescent sexual health and are consistent with the link between contraceptive use and reductions in early childbearing.

5) **Comprehensive sexual health education in lower grades.** Comprehensive sexual health education in lower grades has always been, and remains, optional. Under existing law, for grades 6 and below, an LEA must “opt-in” to offer that instruction to students. The LEA is then required by law to notify parents and guardians of their right to “opt-out” their child, whether in part or completely. Existing law has always required that all comprehensive sexual health education be age-appropriate, medically accurate, and objective – regardless of grade.

According to the CDE, in elementary school it is permissible to teach knowledge and skills related to comprehensive sexual health and HIV prevention education in grades kindergarten through grade six (K–6), inclusive. All instruction and materials in grades K–6 must meet the instructional criteria or baseline requirements of the CHYA and the content that is required in grades 7–12 may be also be included in an age-appropriate way in earlier grades.

6) **Right to inspection.** Existing law requires LEAs to notify parents and guardians of their right to inspect written and audiovisual materials. However, existing law does not prescribe how that inspection must be implemented. This bill proposes to prescribe some parameters for inspection, including that materials be translated, available online, and before the date of instruction. This bill helps ensure adequate lead-time and ease of accessibility for parents and guardians, and also fosters a transparent development process for the inspection process. However, the bill also requires LEAs to translate all written and audio materials for inspection, potentially into several languages. The committee may wish to consider that, to the extent that LEAs determine this proposed requirement is overly burdensome or costly, it could cause some LEAs to forgo offering comprehensive sexual health and HIV prevention education in grades K–6.

7) **Previous legislation.** SB 673 (Morrell, 2019) was similar to this bill and would have amended the California Healthy Youth Act by: (1) requiring active parental consent (“opt-in”) with a signature for sexual health and HIV prevention education in grades lower than 7, (2) specifically requiring local educational agencies to make written and audio visual materials available for inspection before the date of instruction on the local educational agency’s Internet website,

and (3) requiring those material to be translated. SB 673 failed passage in this committee.

SUPPORT

None received

OPPOSITION

ACT for Women and Girls
American Civil Liberties Union – California
American College of Obstetricians and Gynecologists District IX
Apla Health
Black Women for Wellness Action Project
California Latinas for Reproductive Justice
California LGBTQ Health and Human Services Network
Catelynn Kenner Consulting
Children's Law Center of California
Citizens for Choice
Community Action Partnership of San Luis Obispo County, Inc.
Desert Aids Project
Equality California
ETR
Fresno Barrios Unidos
GSA Network
Health Connected
LGBTQ Center Orange County
Los Angeles LGBT Center
More Than Sex-Ed
NARAL Pro-Choice California
Our Family Coalition
Planned Parenthood Affiliates of California
Teen Success
The Los Angeles Trust for Children's Health
Training in Early Abortion for Comprehensive Healthcare
Women's Foundation of California
Women's Health Specialists

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 436 **Hearing Date:** March 10, 2021
Author: Dahle
Version: February 16, 2021
Urgency: No **Fiscal:** No
Consultant: Olgallia Ramirez

Subject: Community colleges: nonresident tuition.

SUMMARY

This bill removes the sunset date of provisions in current law, which authorize Lake Tahoe Community College (LTCC) to waive non-resident tuition fees and claim apportionment for a limited number of students that reside in the Nevada communities of the Lake Tahoe Basin, thereby making the authorization permanent.

BACKGROUND

Existing law:

- 1) Authorizes a community college district to admit non-resident students and requires that these students be charged a tuition fee that is twice the amount of the fee established for in-state resident students, with certain specified exemptions. State statute prescribes a formula for the calculation of the non-resident fee. State law requires the non-resident tuition fee be increased to a level that is three times the amount of the fee established for in-state resident students. (Education Code (EC) § 76140)
- 2) Prohibits non-resident students from being reported as full-time equivalent students (FTES) for state apportionment purposes, except where (1) the community college district has less than 1500 FTES and is within 10 miles of another state and has a reciprocity agreement with that state or (2) if a community college district has between 1501 and 3000 FTES and is within 10 miles of another state and has a reciprocity agreement with that state, they can claim up to 100 FTES for state apportionment purposes. (EC § 76140(h) (i))
- 3) Additionally, exempts up to 200 students in any academic year from paying non-resident tuition fees if they attend the LTCC and reside in specified communities in the State of Nevada; and; (2) permits the LTCC to count these persons as resident FTES for purposes of determining California apportionment funding. *Sunsets these provisions on July 1, 2022.* (EC § 76140 (a)(6))
- 4) Provides that specified nonresident students exempted from paying nonresident tuition may be reported as resident FTES for purposes of state apportionment. These students are required to pay three times the amount of resident fees, and the apportionment rate is adjusted down accordingly (EC § 76140(j)).

- 5) Authorizes the Board of Governors of the California Community Colleges (CCC) to enter into an interstate attendance agreement with any statewide public agency of another state that is responsible for public institutions of postsecondary education providing the first two years of college instruction, and that is an agency of a state that is a member of Western Interstate Commission for Higher Education (WICHE). (EC § 66801)

ANALYSIS

This bill:

- 1) Removes the July 1, 2022 sunset date of provisions in current law, which authorize LTCC to waive non-resident tuition fees and claim apportionment for 200 students that reside in the Nevada communities of Incline Village, Kingsbury, Round Hill, Skyland, Stateline or Zephyr Cove, thereby making the authorization permanent.
- 2) Makes other conforming changes.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "SB 605 provided that the authorization for LTCC to utilize the non-resident tuition waiver would only become operative if the state of Nevada enacted a reciprocal agreement. This provision led to the creation of the California Nevada Interstate Attendance Agreement (CNIAA). Since the passage of SB 605, Nevada has entered into the Western Interstate Commission for Higher Education (WICHE) Western Undergraduate Exchange (WUE). Western Nevada College also participates in WUE, which provides California residents access to non-resident tuition. Because Western Nevada College participates in the WUE, and the WUE provides identical benefits to those provided in CNIAA, there is not a need to extend the provisions of the CNIAA. However, because the CCC system does not currently participate in the WUE, the provisions of this bill are necessary in order to continue to provide reciprocity to Tahoe Basin Nevada residents."
- 2) **Unique circumstances of the Lake Tahoe Basin.** The Lake Tahoe Basin is a one-of-a-kind geographic, political, and economic region comprised of two States, five counties and multiple cities and municipalities. The Lake Tahoe Basin is subject to a single set of environmental and development regulations that directly influence the environmental and economic health of the region, making cross-border, and regional coordination a prerequisite for revitalizing the local economy. LTCC is situated on the south shore of Lake Tahoe, 3 miles from the California/Nevada border and 8 miles from George Whitwell High School in Nevada. LTCC is the only public institution of higher education serving the workforce development needs of the Lake Tahoe Basin. The next nearest community college is 25 miles away in Nevada; an hour drive and subject to extreme weather conditions. This bill seeks to ensure that Tahoe Basin Nevada residents can continue to have affordable access to the programs and courses provided at LTCC.

- 3) **California/Nevada Good Neighbor Agreement.** Between 1988 and 2011, California and Nevada operated under a "Good Neighbor Policy" that met the requirements of EDC 76140(j) and allowed LTCC to provide a waiver of nonresident tuition for Nevada and claim the adjusted apportionment. In 2011, the Nevada Board of Regents voted to end the Good Neighbor Policy, meaning that Nevada residents of the Tahoe Basin were required to pay the full nonresident tuition to attend LTCC.
- 4) **Existing authorization expires.** The Legislature approved SB 605 (Gaines, Chp.657, Stats. of 2015) to annually exempt up to 200 Nevada residents that reside in specified communities in the Basin from paying non-resident fees and authorizes LTCC to count these students as resident full-time equivalent students for purposes of apportionment funding. Under these provisions, Nevada residents in the Tahoe Basin pay \$ 93/unit (quarter units). Following the passage of SB 605, the CCC Board of Governors entered into the CNIAA with the Nevada System of Higher Education. The CNIAA provides reciprocity for California Basin students to attend Western Nevada College and pay resident fees. The provisions of SB 605 and the CNIAA are set to expire on July 1, 2022.

This bill makes provisions established by SB 605 permanent thereby authorizing LTCC to continue to allow a limited number of Nevada residents within the Tahoe Basin to pay a lower rate and claim apportionment funding for those students.

- 5) **Numbers of Students Served.** In 2019, LTCC admitted approximately 40 students (17.76 FTES) under the CNIAA. Western Nevada College provided reciprocity to 26 California students under WUE. The provisions of this would apply to up to 200 Nevada residents within the specified communities.

SUPPORT

Advance Learn Grow Earn
Lake Tahoe Community College District (Sponsor)
Lake Tahoe Community College Foundation
Student Senate for Lake Tahoe Community College
Tahoe Chamber

OPPOSITION

None received.

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 205
Author: Leyva
Version: January 11, 2021
Urgency: No
Consultant: Ian Johnson

Hearing Date: March 10, 2021
Fiscal: No

Subject: School and community college employees: absences due to illness or accident

NOTE: This bill has been referred to the Committees on Education and Appropriations. A "do pass" motion should include referral to the Committee on Appropriations.

SUMMARY

This bill repeals existing laws requiring public school and community college employees to pay for the cost of their substitutes while out on extended illness leave.

BACKGROUND

Existing law:

- 1) Entitles full-time K-12 certificated teachers and California Community College (CCC) academic employees to at least 10 days leave of absence for illness or injury with full pay per school year of service. If the employee does not take the full amount of leave allowed in any school year, the unused leave accumulates each year. (Education Code § 44978 and 87781)
- 2) Entitles full-time K-12 and CCC classified employees to at least 12 days leave of absence for illness or injury with full pay per school year of service. If the employee does not take the full amount of leave allowed in any school year, the unused leave accumulates each year. (EC § 45191 and 88191)
- 3) Specifies that all part-time K-12 and CCC employees are entitled to a prorated number of days leave of absence for illness or injury with full pay. (EC § 44978 and 45191)
- 4) Requires the governing board of each K-12 and CCC district to adopt rules and regulations requiring and prescribing the manner of proof of illness or injury for employee use of leave of absence. (EC § 44978, 45191, 87781, and 88191)
- 5) Specifies that when any K-12 or CCC employee described above has exhausted all available sick leave and continues to be absent from work due to illness or injury, the employee's salary shall be reduced by the cost of a substitute employee, even if a substitute is not actually hired, for up to five school months. (EC § 44977, 45196, 87780, and 88196)

- 6) Allows the governing board of a K-12 or CCC district, in lieu of reducing the employee's pay by the cost of a substitute employee, to pay its employees that have exhausted all available sick leave and continue to be absent from work due to illness or injury 50 percent of the employee's regular salary. (EC § 44983, 45196, 87786, and 88196)

ANALYSIS

This bill:

- 1) Specifies that any K-12 and CCC employee that exhausts all available sick leave and continues to miss work due to illness or injury shall receive their full salary for up to an additional five months.
- 2) Repeals the authority of the governing board of a K-12 or CCC district to pay its employees that have exhausted all available sick leave and continue to be absent from work due to illness or injury 50 percent of the employee's regular salary.
- 3) Makes technical corrections to various sections of law related to compulsory leave, parental leave, and industrial accident or illness leave.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "The existing differential pay law was heavily scrutinized recently when a public school teacher from the San Francisco Unified School District was required to pay for her substitute while undergoing breast cancer treatment. The situation received national attention when a GoFundMe page was launched by parents for the teacher.

When California's educators and other school employees are at their most vulnerable, existing state law requires that they also be responsible for their employer's cost of hiring a substitute. The fiscal responsibility for staffing classrooms and ensuring our schools and community colleges are safe and clean should not fall on our public school and community college employees, much less those that are battling illness or injury. Since early-career and female employees—and their families—are disproportionately at risk of being unfairly hurt by this policy, SB 205 will prevent these and other school and community college employees from having to cover the ongoing costs of their substitutes while on extended sick leave."

- 2) ***Employee use of paid leave.*** Under existing law, K-12 teachers and CCC academic employees are entitled to 10 days of sick leave per school year while K-12 and CCC classified employees are entitled to 12 days of sick leave per year. These days establish a bank of time that accumulates each year. After exhausting all of their available paid leave, employees may qualify for up to five additional school months of extended illness leave. During the extended leave, the employee's pay is reduced by the actual or estimated cost of their substitute, known as "differential pay".

There are instances in which employees can miss work and not be forced to use their accumulated paid leave. For example, jury leave is provided for employees called to serve jury duty in any court during regularly assigned working hours and there is no limitation on the number of days paid per jury service term. Short-term bereavement leave is also typically provided in the event of the death of any member of the immediate family of an employee.

- 3) ***Impact of differential pay on public school employees.*** The existing sections of the Education Code that prescribe the benefits for public school and community college employees on extended sick leave were established in the mid 1970's, and have only been amended for technical reasons since then. During the extended leave, the employee's pay is reduced by the actual or estimated cost of their substitute.

The average teacher in California currently earns about \$430 per day, with the cost of a substitute ranging from around \$120 to over \$200 per day. The average classified school employee earns about \$25,000 per year, with substitute pay typically around \$15 per hour. However, there are instances when the cost of a substitute can exceed the salary of the employee. When this happens, the employee earns nothing while out on extended leave.

Early-career employees that do not have a large amount of leave stored are more likely to feel the impacts of differential pay. Moreover, female employees that have previously used their sick leave during or after pregnancy are far more likely to exhaust what little sick leave they may have remaining.

- 4) ***The widening wage gap between teachers and other college graduates.*** Teachers are continuing to fall behind other college graduates in the wages they earn, contributing to the difficulties many school districts in California and the nation face in filling positions in key subject areas. Research by the Economic Policy Institute published in April 2019 on teacher compensation found the following:

- a) Average weekly wages of public school teachers (adjusted for inflation) decreased \$21 from 1996 to 2018, from \$1,216 to \$1,195 (in 2018 dollars). In contrast, weekly wages of other college graduates rose by \$323, from \$1,454 to \$1,777 over this period.
- b) For all public-sector teachers, the relative wage penalty (controlling for education, experience, and other factors known to affect earnings) has grown substantially since the mid-1990s. The teacher weekly wage penalty was 5.3 percent in 1993, grew to 12.0 percent in 2004, and reached a record 21.4 percent in 2018.
- c) While relative teacher wage penalties have worsened over time, some of the difference is attributable to a trade-off between wages and benefits. In 2018, nonwage benefits made up a greater share of total compensation for teachers (29.1 percent) than for professionals (21.5 percent). However, this advantage in benefits has not been enough to offset the growing wage penalty. The total teacher compensation penalty was 13.1

percent in 2018 (composed of a 21.4 percent wage penalty offset by an 8.4 percent benefits advantage), just slightly less than the record high 13.3 percent compensation penalty in 2017.

The research concludes that the opportunity cost of choosing a career in teaching is rising as relative teacher wages and compensation falls further behind that of other professions—and we must remedy that if we are to keep experienced teachers in the classroom.

- 5) ***Other alternatives for increased school employee disability benefits.*** Those opposed to this bill cite alternative options for school employees in need of additional disability benefits beyond sick leave. Each of these benefits must either be paid for by employees or collectively bargained:
- a) *District-paid disability insurance.* These plans are adopted only as a result of collective bargaining and are not common. These plans range from short-term (income replacement for six months or so) to long-term (income replacement to age 65).
 - b) *Voluntary employee disability insurance.* This coverage is more common and involves the employee paying a percentage of their paycheck in exchange for partial income replacement should they become disabled.
 - c) *Hybrid plan variations.* Some districts offer blended programs in which the employer and employees share the premium costs. These plans can have a wide range of benefits and also a range of premiums.

Like most government workers, public school and community college employees are not covered by California State Disability Insurance (SDI). The SDI program provides partial wage replacement for employees unable to work due to illness or injury for up to 52 weeks. This program is funded by employee contributions in the form of a state tax through payroll deductions.

- 6) ***Do school and community college districts validate employee illness or injury?*** Opponents of this bill have cited concerns about the way in which school districts would be able to validate whether school employees are using extended illness leave responsibly. It is important to note that under existing law, school and community college governing boards are required to adopt rules and regulations requiring and prescribing the manner of proof of illness or injury for employee use of leave of absence.

The following language, from Sunnyvale Unified School District, is commonly found in collective bargaining agreements:

“16.1.7 The District, when it believes that an employee is utilizing, or attempting to utilize illness leave for non-illness related absences, may require such employee as a condition of receiving paid illness leave, to submit a statement from his/her physician confirming that the absence is due to illness or injury. In such cases, supervisors will notify employees

that physician verification will be required but will not ask the employees to return to work due to unavailability of substitutes.”

- 7) **Arguments in support.** The California School Employees Association states, “The In 2019, the case of a San Francisco teacher unable to work due to breast cancer and forced to pay the cost of her substitute made headlines. Cancer and other serious illnesses are devastating for families and financial pressures add to their distress. No worker should have to pay for the employee covering their work.

“Classified employees are the lowest paid employees working in our public schools. Over half of our members work part-time, most pay a large portion of their wages for health care and over 70% are women. Many are mothers and grandmothers and they need stability during an injury or an illness.

“For most school employees, district-provided paid leave is the only safety net that exists for prolonged illnesses. Teachers and classified school employees do not participate in the state disability program and cannot rely on it when unable to work.

“SB 205 would give school employees peace of mind by providing a fair and reliable paid leave standard. It would establish that workers are eligible for a five month, fully paid leave, without deduction for the cost of the substitute employee.”

- 8) **Arguments in opposition.** Opponents of this bill state, “Notwithstanding our sympathy for any employee who is forced to miss work as the result of a serious illness, the leave benefits that are available to school employees under various provisions of the Education Code are generous – particularly in comparison to employees that are employed in the private sector. There are also various options available to school employees on extended leave for illness. Some school employers pay for disability insurance for employees, which shifts the cost of coverage back to the employer. Voluntary disability insurance plans are also available for employees wishing to obtain additional insurance, beyond the benefits that are included in the Education Code. Certificated employees on extended leave for illness would also likely be eligible for disability retirement benefits from CalSTRS or CalPERS, and in instances where they recover and become healthy again, they would be owed a position with their employer if they were able to return within 39 months.

“Further, we believe there is a misconception that “differential pay leave,” as it is commonly known, is only used for serious, long-term illnesses such as cancer, heart attacks and strokes. However, in practical application, it can also be used for any illness, serious or not, of any length. If SB 205 were to be enacted, a school employee could be absent at full pay for 10-12 days plus five additional months, which would constitute roughly 100 work days – or more than half of a regular school work year.”

SUPPORT

California School Employees Association (sponsor)
American Federation of State, County, and Municipal Employees
California Labor Federation
California Teachers Association
Faculty Association of California Community Colleges
Service Employees International Union

OPPOSITION

Association of California Community College Administrators
Association of California School Administrators
California Association of School Business Officials
Kern County Superintendent of Schools
Riverside County Superintendent of Schools
Riverside County Public K-12 School District Superintendents
School Employers Association of California
Small School Districts' Association

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referrals to health services, mental health services, housing assistance, and other related services. (EC § 79220)

- 4) Requires a student participant in this program to meet both of the following requirements:
 - a) Be a current or former foster youth in California whose dependency was established or continued by the court on or after the youth's 16th birthday.
 - b) Be no older than 25 years of age at the beginning of any academic year in which the student participates in the program. (EC § 79222)
- 5) Establishes as eligibility criteria, among other things, that the student qualify to receive a fee waiver with a calculated Expected Family Contribution of \$0. (California Code of Regulations, Title 5, § 56403)

ANALYSIS

This bill expands eligibility for priority enrollment for current and former foster youth at the UC, CSU, and CCC, and expands eligibility for a student support program for current and former foster youth at the CCCs. Specifically, this bill:

- 1) Expands eligibility for priority enrollment at UC, CSU, and the CCCs by changing the age that dependency was established or continued by the court from the youth's 16th birthday to the youth's 13th birthday.
- 2) Expands eligibility for participation in the NextUp program for current and former foster youth at CCCs by changing the age that dependency was established or continued by the court from the youth's 16th birthday to the youth's 13th birthday.
- 3) Authorizes NextUp programs to provide services, including direct financial support, to enrolled students who meet all eligibility requirements but whose courses have not yet begun, and who have completed required matriculation activities, if the direct financial support is necessary to enable the student to be successful upon the beginning of the academic term.
- 4) Requires regulations to ensure that program application and enrollment processes are streamlined and do not impose barriers to entry.
- 5) Requires regulations to allow programs to exercise professional judgment to waive any income criteria specified in the regulations as a condition of eligibility, provided that income-eligible students have first priority.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "It has been well-documented that students who are current or former foster youth experience poor educational outcomes, most notably low rates of college completion: just eight percent obtain a degree by age 26 as compared to 46 percent of the same-age non-foster youth population. This serious educational disparity led to the establishment of a special program for foster youth enrolled in community college, known as NextUp. This program is in place at 45 community colleges, annually serving 2,100 current and former foster youth. NextUp provides a comprehensive array of services to promote college retention and degree attainment. Students must have been in foster care after the age of 16, be under age 26 and be enrolled in a minimum of nine units to participate. While the NextUp program has been very effective, several barriers to access have been identified that create challenges for foster youth attempting to pursue a postsecondary education. This bill addresses these barriers, including modifying eligibility so that students who were in foster care at or after age 13 may participate, creating flexibility around income requirements for students transitioning from full-time employment to school, specifically authorizing existing funds to be used to provide support to enrolled students as they are matriculating, and clarifying that programs should create streamlined systems for application and entry. This bill also expands eligibility criteria for priority enrollment at UC, CSU and the CCCs, from requiring a student to have been in foster care at age 16 to having been in care at age 13, which conforms to the related question on the FAFSA, as well as other provisions of this bill."
- 2) **NextUp.** The Student Success Task Force reported that students who maintained full-time enrollment (12 units) were more likely to meet their educational goals. Regulations established eligibility for student support to include full-time enrollment. However, reports specific to educational outcomes of foster youth found that maintaining full-time enrollment is an obstacle for students who are current or former foster youth; many do not continue to attend beyond the first year. As a result, legislation established the "Cooperating Agencies Foster Youth Educational Support Program" in statute in 2015. In 2017, the CCC Chancellor's Office changed name of this program to "NextUp." The goal is to provide the support and services to students necessary to assist them in meeting the requirements of the Student Success Act.

A student is eligible to be served by the NextUp program if the student is a current or former foster youth who was in care on or after the student's 16th birthday, is enrolled in at least 9 units, and is not older than 25 years of age at the beginning of the academic term in which the student participates in NextUp.

The NextUp program provides traditional student support services such as orientation, in addition to outreach and recruitment, consultation and eligibility verification, consultation and referrals for students deemed ineligible, service coordination, counseling, book and supply grants, tutoring, independent living and financial literacy skills support, frequent in-person contact, career guidance, transfer counseling, child care and transportation assistance, and referrals to health services, mental health services, housing assistance, and other related services.

Existing law requires the CCC Board of Governors to submit a report by March 31, 2020 and biennially thereafter, describing its efforts to serve students who are current and former foster youth, and include:

- A review on a campus-by-campus basis of the enrollment, retention, transfer, and completion rates of foster youth, including categorical funding of those programs.
- Recommendations on whether and how the program under this article can be expanded to all community college districts and campuses.

The CCC Chancellor's Office anticipates the first of these reports to be released very shortly.

A 2019 report that is relevant to the NextUp program found access to support programs is highly predictive of success in the first year of community college, participation can also serve as an extra layer of coordination between social workers, campus counselors, and instructors, and recommends expanding eligibility to enable additional students to be served.

<https://www.jbaforyouth.org/wp-content/uploads/2019/12/Pipeline-to-Success-report-web.pdf>

- 3) **Age in foster care.** Community college students who were in foster care on or after their 16th birthday are eligible to participate in the NextUp program. This bill expands eligibility to include students who were in foster care on or after their 13th birthday. This bill also expands eligibility for priority enrollment at UC, CSU and the CCCs by including students who were in foster care on or after their 13th birthday. These changes align the age threshold with the determination for independent status used by the FAFSA (age 13). It is estimated that an additional 1,100 students would be eligible to participate in the NextUp program, and an additional 2,500 students would be eligible for priority enrollment across the public segments of postsecondary education.

The NextUp program serves approximately 2,100 current and former foster youth, while the CCC Chancellor's Office estimates nearly 13,000 current or former foster youth were enrolled in California's community colleges (pre-COVID).

- 4) **Income criteria.** This bill requires regulations to allow NextUp programs to exercise professional judgment to waive any income criteria specified in the regulations as a condition of eligibility for participation in NextUp, provided that income-eligible students have first priority. Pursuant to existing regulations, to be income-eligible to participate in NextUp, a student must qualify to receive a California College Promise Grant (CCPG), formerly known as the Board of Governors (BOG) Fee Waiver, and have a calculated Expected Family Contribution (EFC) of \$0. Students must meet one of the following to be eligible for the CCPG:

- Have a total income in the prior year equal to or less than 150 percent of the federal poverty level.
- Have an EFC as determined by federal methodology that is equal to zero.
- Be determined financially eligible for federal and/or state needed-based financial aid.
- Be a current recipient of Temporary Assistance for Needy Families, Supplemental Security Income or General Assistance.

According to the author, flexibility is needed specific to the requirement for a student's EFC to be zero. Students who have worked in the prior year, for example, still have financial need yet have an EFC above zero. These students are currently not eligible to participate in the NextUp program.

NextUp programs work closely with campus financial aid offices, and would continue to do so to determine a student's financial need even with an EFC above zero. Additionally, this bill provides that income-eligible students (those with an EFC of zero) have first priority to participate in the NextUp program.

- 5) ***When services may be provided.*** This bill authorizes NextUp programs to provide services, including direct financial support, to enrolled students who meet all eligibility requirements but whose courses have not yet begun, and who have completed required matriculation activities, if the direct financial support is necessary to enable the student to be successful upon the beginning of the academic term. According to a verbal opinion provided by the CCC Chancellor's Office, direct financial support may be provided only once courses have begun. This restriction can create challenges for students who may need a books and supply grant, for example, prior to the first day of classes.
- 6) ***Regulations.*** This bill requires regulations to ensure that program application and enrollment processes are streamlined and do not impose barriers to entry. This bill does not specifically require regulations to be developed or modified; presumably regulations would be adjusted pursuant to the traditional process.

The goal, while not directed by the bill, is to have regulations that address existing barriers such as a requirement to apply first to Extended Opportunity Programs and Services (EOPS) and then to NextUp, or the imposition of a deadline to apply to NextUp when the EOPS program is impacted.

- 7) ***Prior legislation.*** SB 958 (Leyva, 2020) was identical to this bill. SB 958 was not heard due to the compressed legislative schedule.

SUPPORT

California Youth Connection (sponsor)
 John Burton Advocates for Youth (sponsor)
 American Academy of Pediatrics, California

Association of Community Human Services Agencies
Beyond Emancipation
Butte College Inspiring Scholars
California Association of Student Councils
California Community Colleges Chancellor's Office
California State University, Monterey Bay, College Support Programs
Children Now
College of the Desert, Foster Youth Success Initiative
David & Margaret Youth and Family Services
Doing Good Works
East Los Angeles College, NextUp/Foster Youth Program
Excite Credit Union
Extraordinary Families
Foster Care Counts
Fullerton College, EOPS/Foster Youth Success Initiative
Hillsides
Learning for Life Charter School
Long Beach City College, NextUp Program
Mt. San Antonio College
One Day, Inc.
Orange Coast College, Guardian Scholars/NextUp Program
Power to Soar Foundation
Public Counsel
Reedley College, NextUp/EOPS
Sacramento State University, Guardian Scholars Program
San Diego City College, NextUp Program
St. Anne's
SHIELDS for Families
University of California, Merced, Guardian Scholars Program
VOICES
Woodland Community College, Foster & Kinship Care Education and Independent
Living Programs

OPPOSITION

None received

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2019-20 fiscal year. (EC § 8265)

SRR adjustment factors

- 5) Provides for multipliers to provider agency's reported child days of enrollment for the additional expense of serving children who meet certain criteria, as follows (beginning January 1, 2019):
 - a) For infants who are 0 to 18 months and are served in a center or family home, the adjustment factor is 2.44.
 - b) For toddlers who are 18 to 36 months and are served in a center or family home, the adjustment factor is 1.8.
 - c) For children with exceptional needs who are 0 to 21 years, the adjustment factor is 1.54.
 - d) For severely disabled children who are 0 to 21 years, the adjustment factor is 1.93.
 - e) For children at risk of neglect, abuse, or exploitation who are 0 to 14 years, the adjustment factor is 1.1. This applies only to full-day schools and part-day preschools below the SRR.
 - f) For children age two years to kindergarten age who are English learners, the adjustment factor is 1.1. This applies only to full-day schools and part-day preschools below the SRR.
 - g) The adjustment factor is 1.05 for the following:
 - i) Children who are served by a state preschool program.
 - ii) Infants and toddlers who are 0 to 36 months and are served in general childcare programs.
 - iii) Children who are 0 to 5 years and are served in a family home that provides early childhood mental health consultation services. (EC § 8265.5)

Regional market rate (RMR) – for Alternative Payment Providers (vouchers for Stage 3 CalWORKs)

- 6) Authorizes recipients of Stage 3 child care services to choose the child care services of licensed child care providers or child care providers who are not required to be licensed. (EC § 8357)
- 7) Provides that the cost of that child care is to be reimbursed by counties or agencies that contract with CDE if the cost is within the RMR. (EC § 8357)

- 8) Defines "regional market rate" as care costing no more than 1.5 market standard deviations above the mean cost of care for that region. Existing law states legislative intent to reimburse child care providers at the 85th percentile of the most recent RMR survey. (EC § 8357)
- 9) Requires the RMR ceilings to be established at the greater of either of the following:
 - a) The 75th percentile of the 2016 RMR survey for that region.
 - b) The RMR ceiling that existed in that region on December 31, 2017. (EC § 8357)
- 10) Prohibits reimbursement to license-exempt child care providers from exceeding 70 percent of the family child care home. (EC § 8357)
- 11) Prohibits reimbursement to child care providers from exceeding the fee charged to private clients for the same service. (EC § 8357)

ANALYSIS

This bill requires the Department of Social Services (DSS) to establish a single reimbursement rate for early learning and care programs, including variation for regional costs and quality adjustment factors. Specifically, this bill:

Reimbursement system plan

- 1) Recasts existing statutes that require the implementation of a reimbursement system plan to:
 - a) Modify the basis for variation of rates, from length of program year and hours of service to variance based on the adopted regional reimbursement ceiling.
 - b) Add the inclusion of a quality adjustment factor to address the cost of staffing ratios.
 - c) Add the inclusion of any additional adjustment factors.
 - d) Reflect the transition of many early learning programs from CDE to DSS.
- 2) Requires the reimbursement system plan to include a formula for annually adjusting reimbursement rates for each agency, based on all of the following:
 - a) The annual Budget Act funding allocated for SRR increases pursuant to this bill.
 - b) An equitable distribution of SRR increases to agencies, by county, as an equal percentage of the county outstanding rate target, for purposes of meeting the targets.

- c) Funding allocated for cost-of-living adjustments, if applicable.
- 3) Requires DSS to submit the reimbursement system plan to the Joint Legislative Budget Committee by November 10, 2022, and annually thereafter.
- 4) Requires that the reimbursement system plan requires agencies having an assigned reimbursement rate above the current year SRR to reduce costs on an incremental basis to achieve the SRR.
- 5) Requires first priority for increases in reimbursement rates be provided to childcare agencies funded at the lowest rates.
- 6) Requires the reimbursement system plan to provide for expansion of child development programs at no more than the SRR for that fiscal year.

Modernized reimbursement formula

- 7) Requires DSS, by January 1, 2024, to develop or hire a contractor to develop, a modernized reimbursement formula based on the components outlined in the state's Master Plan for Early Learning and Care, including:
 - a) Adjustments for market.
 - b) Program quality.
 - c) Child needs and characteristics.
 - d) State of emergency declarations.

Standard reimbursement rate

- 8) Requires DSS, January 1, 2022, to adopt an interim standard reimbursement rate based on the 2018 regional market rate survey of \$11,995.
- 9) Requires DSS, beginning with the 2024–25 fiscal year, to implement the new base rate, which is to be annually increased by the cost-of-living adjustment granted by the Legislature.

State Preschool reimbursement rate

- 10) Establishes, beginning July 1, 2018, the full-day state preschool reimbursement rate as \$12,070.
- 11) Requires, beginning with the 2019–20 fiscal year, the full-day state preschool reimbursement rate to be annually increased by the cost-of-living adjustment granted by the Legislature.

RMR ceilings

- 12) Establishes, for the 2021 calendar year and upon appropriation of funds, the 2021 RMR ceilings as the greater of:
 - a) The 75th percentile of the 2021 regional market survey for that region.
 - b) The regional market rate ceiling that existed in that region on December 31, 2017.
- 13) Requires, beginning January 1, 2022, and annually thereafter (upon appropriation), the regional market rate ceilings to be established at the greater of:
 - a) The 85th percentile of the 2018 regional market survey for that region.
 - b) The regional market rate ceiling that existed in that region on December 31, 2017
- 14) Requires, if there is no appropriation, the regional market rate ceilings to be established at the 75th percentile of 2016 regional market survey.

Reimbursement for license-exempt providers.

- 15) Prohibits, beginning January 1, 2022, and annually thereafter (upon appropriation), license-exempt childcare providers from exceeding 70 percent of the commensurate rate, including hourly, daily, weekly, and monthly, for both full-time and part-time care subject to the RMR.

Reimbursement rate target

- 16) Requires DSS, on or before July 1, 2022, and annually thereafter, to establish a reimbursement rate target for each contracting agency that meets existing quality standards, based on all of the following elements:
 - a) The RMR ceilings for the contracting agency's county, as applicable.
 - b) The quality adjustment factor for the age range of children proposed to be served by the contracting agency, as a multiplier.
 - c) The program year and hours of service reimbursement factor, if applicable.
 - d) Additional adjustment factors for special circumstances or services, if applicable.
 - e) A short-term crisis adjustment factor of 1.5 under any state of emergency declarations made by local or state officials.
- 17) Prohibits a contracting agency's rate target from being less than that agency's 2022 rate, by age range.

Quality adjustment factors (applies to all programs and providers, including alternative payment and license-exempt)

- 18) Requires DSS, in order to meet the costs of providing existing quality standards beyond those calculated in the RMR survey, to establish quality adjustment factors for all of the following age ranges:
 - a) For infants who are 0 to 18 months, the adjustment factor is to be 1.23.
 - b) For toddlers who are 18 to 36 months, the adjustment factor is 1.23.
 - c) For preschoolers who are 36 months to six years, the adjustment factor is 1.23.
 - d) For schoolage children who are six years and older, the adjustment factor is 1.03.
- 12) Requires that all providers, regardless of type, meeting quality standards be paid the quality adjustment factor, including family child care home education networks.

New crisis adjustment factor

- 13) Establishes a new crisis adjustment factor of 1.5 for children who are served in a county experiencing a county state of emergency, or any county during a statewide state of emergency.

Other adjustments

- 14) Reduces the reimbursement factor, from 55 to 50 percent of the SRR, for childcare and development providers serving children for less than four hours per day.

Regional market survey

- 15) Requires DSS to contract to conduct and complete a regional market rate survey no more frequently than once every two years, with a goal of completion by March 1.
- 16) Requires DSS to update the regional market rate survey methodology to include both of the following:
 - a) Age ranges and hours of service ranges.
 - b) Direction for the survey to mitigate the impact of contractors located in deep-poverty census tracts on the market profile or county rate.

Miscellaneous

- 12) Provides that the transition to a new reimbursement rate structure is to become operative on or after July 1, 2022, and upon an appropriation in the annual Budget Act or another act for the express purpose of implementing this bill.
- 13) Makes technical changes to reflect the transfer of many early learning programs from CDE to DSS.
- 14) Sunsets the existing reimbursement rate structure upon implementation of the provisions of this bill.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “California has a mixed delivery system that provides early care and education (ECE) services for the state’s youngest learners, including child care, preschool, and early learning.

“Specifically, it has two different and unaligned systems for reimbursing early learning services. Child care providers meeting Title 22 standards are reimbursed using a Regional Market Rate (RMR) that accounts for geographic economic cost factors, while directly state-contracted early learning centers that meet Title 5 standards—in addition to Title 22 standards—are reimbursed at a flat Standard Reimbursement Rate (SRR).

“This bifurcated rate system and inadequately low reimbursement rates complicate efforts to fund and deliver high-quality ECE programs that meet the developmental needs of all children while addressing the health, safety, and well-being of the children served.

“This current structure and overall insufficient funding limit California’s ability to increase teacher compensation, adequately resource ECE programs, and incentivize quality improvement efforts, ultimately limiting access and forcing many child care providers out of business.”

- 2) ***Dual system for state-subsidized childcare and early learning.*** The state’s early learning services are delivered to eligible families through two categories of providers: Title 22 and Title 5 providers.

- a) Title 22 (Alternative Payment Programs/Voucher) providers include licensed centers, licensed family childcare homes, and license-exempt care (family, friend, and neighbor). Licensed programs must adhere to the requirements of Title 22 of the California Code of Regulations and are reimbursed at the levels that are based on RMR. License-exempt providers must meet minimum health and safety standards.

Title 5 (direct service contracts) providers contract directly with CDE for licensed early learning and care, through centers, Family Child Care Home Education Networks, and state preschool. In addition to Title 22 licensing requirements, these providers must also adhere to the requirements of Title 5 of the California Code of Regulations and are reimbursed with the SRR.

Title 5 providers must meet higher education, training, and health and safety standards. Yet, in some counties, Title 22 providers, who are not required to meet these higher standards, are paid at a higher reimbursement rate than the Title 5 providers.

- 3) ***Dual system of reimbursement rates.*** California has established two methodologies for determining the reimbursement rates for early learning and care services:

- a) *The Regional Market Rate (RMR).* Title 22 providers are reimbursed at the RMR. The RMR is determined by the RMR survey and varies depending on the geographical location of the provider. The RMR is based on a survey of licensed centers and family childcare homes measuring childcare rates of similar socio-economic conditions. These rates vary significantly from one county to another, reflecting differences in the cost of care.

Rate ceilings are established for each county according to estimates of the 75th percentile of rates for the various types of childcare settings. The county rate ceilings are differentiated by the age of the child (infant, preschool, school age), full-day or part-day care, and frequency of care (days per week).

Existing law requires the RMR survey to be updated every two years, and states intent that providers be reimbursed at the 85th percentile of the most recent survey. The RMR is currently set to the 75th percentile of the 2016 RMR, thereby providing a lower rate than if based on the most recent survey (which was completed in 2018). The 2020 survey was never completed (nor should it have been due to abnormal data).

RMR ceilings for license-exempt providers are set at the 70th percentile of a county's established RMR ceiling for family child care homes.

- b) *Standard Reimbursement Rate (SRR).* Title 5 providers (general child care, migrant child care, and state preschool) are reimbursed at the SRR, which is a specific uniform rate established in statute. The SRR is currently established at \$11,995, and the full-day state preschool reimbursement rate is established at \$12.070 (both in addition to cost-of-living-adjustments).

Title 5 programs contract with, and receive payments directly from, CDE. These programs receive the same reimbursement rate (plus adjustment factors depending on the age and needs of the child) regardless of geographic region.

- 4) ***New tiered reimbursement rate structure.*** This bill immediately increases rates for both the RMR and SRR, and requires the creation and phase-in of a new reimbursement rate structure. This bill requires DSS to first establish an interim SRR by January 2022, and beginning with the 2024–25 fiscal year, implement the new base rate, which is to be annually increased by the cost-of-living adjustment. According to the author and consistent with recommendations included in the Master Plan for Early Learning, the base rate will be specific to

provider/program type, takes into account provider/program standards.

Once the new base rate is established by DSS, a provider's reimbursement rate would be determined by adding any adjustments that a provider is eligible to receive to the base. However, providers do not necessarily immediately receive this rate.

The reimbursement rate target provides a goal for each provider to reach the new base and applicable adjustments. The target represents the gap between the provider's current reimbursement rate and what the provider should receive under the new base rate and applicable adjustments.

As reimbursement rates increase over time with increased Budget allocations, and as providers meet criteria to receive the quality adjustment factor (and other adjustments such as for zone or child characteristic), a provider's reimbursement rate will grow and eventually reach the target.

Once a provider's reimbursement rate reaches the target reimbursement rate, that rate becomes the provider's new reimbursement rate (base and applicable adjustment factors; the existing SRR adjustment factors will phase out for that provider).

Providers who currently receive reimbursement under the RMR will continue to be subject to RMR ceilings, but will shift to a new base rate once those providers reach their reimbursement rate target. Until those providers reach their targets, they would continue under the existing RMR reimbursement structure.

While, this bill continues the existing limitation that license-exempt providers of full-time care receive 70 percent of the rate, this bill also allows providers of part-day care to receive 70 percent of the rate.

- 5) ***New crisis adjustment factor.*** This bill establishes a new crisis adjustment factor of 1.5 for children who are served in a county experiencing a county state of emergency, or any county during a statewide state of emergency. According to the author, this new adjustment factor is meant to address emergency situations such as a pandemic, wildfire, mudslide or other disaster.
- 6) ***Regional market rate (RMR) survey.*** Existing law requires the RMR ceilings to be established at the greater of either of the following:
 - a) The 75th percentile of the 2016 RMR survey for that region.
 - b) The RMR ceiling that existed in that region on December 31, 2017.

This bill requires the RMR ceilings, beginning in 2021, to be based on an updated survey, or the ceiling from 2017, whichever is greater. However, those changes are conditioned upon an appropriation. The ***author wishes to amend*** this bill to require, regardless of appropriation, the RMR ceiling to be the greater of the 75th percentile of the 2018 survey for that region or the ceiling from 2017.

- 7) **Reduction in reimbursement for part-day.** Reduces the reimbursement factor, from 55 to 50 percent of the SRR, for childcare and development providers serving children for less than four hours per day. Currently, early learning providers reimbursed pursuant to the SRR receive more funding for offering two part-day programs than for offering a full-day program. This provision is meant to incentivize providers to offer full-day programs to meet the needs of working families.
- 8) **Related reports and recommendations.** Recent reports have cited the need for a streamlined reimbursement rate system that would be better aligned with the true cost of care and offer a simplified process for the administration of subsidized childcare services and early learning programs. These include the following:
- a) *Master Plan for Early Learning and Care (December 2020).* The Master Plan for Early Learning and Care recommends the adoption of a new reimbursement rate model that brings all types of care and learning support into one structure that acknowledges costs associated with quality, including characteristics of children and competencies of the workforce. <https://chhs-data-prod.s3.us-west-2.amazonaws.com/uploads/2020/12/01104743/Master-Plan-for-Early-Learning-and-Care-Making-California-For-All-Kids-FINAL.pdf>
 - b) *California Assembly Blue Ribbon Commission on Early Childhood Education Report (March 2019).* The Assembly Blue Ribbon Commission asserts that the current funding for the system is outdated and the need for access to childcare continues to grow. Relative to rate reform, the report notes that the commission concurs with the multi-step recommendations of the First 5 working group described below. <https://speaker.asmdc.org/sites/speaker.asmdc.org/files/pdf/BRC-Final-Report.pdf>
 - c) *The First 5 California Rate Reform Stakeholder group whitepaper. Developing a Single-Rate System Reimbursement Structure for California (November 2018).* The First 5 California workgroup established a set of guiding principles and recommendations for development of a single, regionalized reimbursement rate system for child care, preschool and early learning services. The report raised concerns that state's unaligned two-system approach for reimbursing subsidize care limits access, fails to maximize program quality and is forcing many childcare providers out of business in California. https://www.cafc.ca.gov//pdf/about/organization/policy/Developing_Single-Rate_Structure.pdf
- 9) **Prior legislation.** SB 174 (Leyva, 2019) would have required, subject to an appropriation, that specified providers of subsidized childcare be reimbursed based upon an updated RMR; established the "Quality Counts California Pilot Reimbursement Program," to provide higher reimbursement rates to alternative payment program providers for meeting certain quality standards; and made the enactment of this bill contingent upon the enactment of AB 125 (2019). SB 174 passed the Senate and both Assembly policy committee, but was not heard in

the Assembly Appropriations Committee due to the compressed legislative timelines in 2020.

AB 125 (McCarty, 2019) would have revised the state's system and rates for reimbursing subsidized childcare and development programs to create a more uniform reimbursement system reflecting regional costs of care; and was contingent upon the enactment of SB 174 (Leyva, 2019). AB 125 passed the Assembly and the Senate Education committee but was not heard in the Senate Appropriations Committee due to the compressed legislative timelines in 2020.

- 10) AB 2125 (Ridley-Thomas, 2014) would have required the SPI to review the plan that establishes standards and assigns reimbursement rates for child care and development programs, and to submit recommendations for a single reimbursement system that reflects the actual current cost of child care based on the most recent regional market rate survey. AB 2125 was held in the Senate Appropriations Committee.

SUPPORT

Child Care Alliance of Los Angeles (sponsor)
EveryChild California Association of Leaders Advancing Early Learning (sponsor)
California Alternative Payment Program Association
California Association for the Education of Young Children
Children Now
Council for a Strong America
Early Care and Education Pathways to Success
First 5 Alameda County
First 5 Association of California
First 5 San Benito
First 5 Humboldt
First 5 San Diego
First 5 San Mateo County
First 5 Santa Clara County
First 5 Santa Cruz County
First 5 Shasta
First 5 Solano Children and Families Commission
Riverside County Superintendent of Schools
San Diego for Every Child

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 309 **Hearing Date:** March 10, 2021
Author: Leyva
Version: February 4, 2021
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: School finance: college readiness: grants and notification

SUMMARY

This bill: (1) appropriates \$200,000,000 for the establishment of the A–G Completion Improvement Grant Program, for the purpose of providing additional supports to local educational agencies to help increase the number of California high school pupils, particularly unduplicated pupils, who graduate from high school eligible to attend a University of California (UC) or California State University (CSU); (2) increases notification requirements regarding high school graduation requirements and UC/CSU admission requirements; and (3) commencing with the 2026-27 school year, requires charter schools and county offices of education to meet the same requirement as school districts to offer to all otherwise qualified pupils a course of study fulfilling the requirements and prerequisites for admission to the UC/CSU in a timely manner.

BACKGROUND

Existing law:

- 1) Requires each school district maintaining any of grades 7 to 12, inclusive, to offer to all otherwise qualified pupils in those grades a course of study fulfilling the requirements and prerequisites for admission to the California public institutions of postsecondary education and to provide a timely opportunity to each of those pupils to enroll within a four-year period in each course necessary to fulfill those requirements and prerequisites prior to graduation from high school. (Education Code § 51228)
- 2) Requires each school district offering any of grades 9 to 12, inclusive, each school year, to provide the parent or guardian of each minor pupil enrolled in any of those grades in the district with written notification that, to the extent possible, shall not exceed one page in length and that includes, among other things, both of the following:
 - a) A brief explanation of the college admission requirements.
 - b) A list of the current UC/CSU websites that help pupils and their families learn about college admission requirements and that list high school courses that have been certified by the UC as satisfying the requirements for admission to the UC/CSU. (EC § 51229)

ANALYSIS

This bill appropriates \$200,000,000 for the establishment of the A–G Completion Improvement Grant Program, for the purpose of providing additional supports to local educational agencies to help increase the number of California high school pupils, particularly unduplicated pupils, who graduate from high school eligible to attend a UC/CSU. Specifically, this bill:

- 1) Appropriates, for the 2021–22 fiscal year, the sum of two hundred million dollars (\$200,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction (SPI) for transfer by the Controller to Section A of the State School Fund for allocation by the SPI to establish the A–G Completion Improvement Grant Program in the manner and for the purpose set forth in the bill.
- 2) Establishes A–G Completion Improvement Grant Program for the purpose of providing additional supports to local educational agencies to help increase the number of California high school pupils, particularly unduplicated pupils, who graduate from high school with A–G eligibility.
- 3) Requires the SPI to allocate, for the 2021–22 fiscal year, one hundred fifty million dollars (\$150,000,000) of the overall grant funds in an equal amount per unduplicated pupil enrolled in grades 9 to 12, inclusive, for the 2020–21 fiscal year to each local educational agency (LEA) that is identified by the California Department of Education (CDE) as having an overall A–G completion rate of less than 45 percent. These grants shall be known as “A-G Access Grants.”
- 4) Provides that an LEA is otherwise eligible and is receiving concentration grant funding during the 2020–21 fiscal year shall not receive a total allocation that is less than seventy-five thousand dollars (\$75,000).
- 5) Specifies that these funds are available for expenditure or encumbrance through the 2025–26 fiscal year and that it is the intent of the Legislature that funds be appropriated for these purposes on an ongoing annual basis.
- 6) Requires an A-G Access Grant to be used for activities that directly support pupil access to, and successful completion of, the A–G course requirements. Eligible activities may include, but are not limited to, any of the following:
 - a) Providing teachers, administrators, and counselors with professional development opportunities to improve the LEA’s A–G completion rate.
 - b) Developing comprehensive advising plans and pupil supports, including tutoring programs, to improve the LEA’s A–G completion rate.
 - c) Expanding access to coursework or other opportunities to satisfy A–G course requirements to all pupils, including, but not necessarily limited to, unduplicated pupils. These opportunities may include, but shall not be limited to, course development, course review, and new or expanded

partnerships with other secondary or postsecondary educational institutions.

- 7) Requires the SPI to allocate, for the 2021–22 fiscal year, fifty million dollars (\$50,000,000) of the overall grant funds in an equal amount per unduplicated pupil enrolled in grades 9 to 12, inclusive, for the 2020–21 fiscal year to LEA that certifies to the department that it has incorporated the A–G course requirements into its local graduation requirements and is identified by the CDE as having an overall A–G completion rate of less than 80 percent.
- 8) Specifies that an LEA that is otherwise eligible and is receiving concentration grant funding during the 2020–21 fiscal year shall receive a total allocation of less than seventy-five thousand dollars (\$75,000). These grants shall be known as “A-G Success Grants.”
- 9) Specifies that these funds are available for expenditure or encumbrance through the 2025–26 fiscal year and that it is the intent of the Legislature that funds be appropriated for these purposes on an ongoing annual basis.
- 10) Requires an A–G Success Grant to be used for activities that directly support the successful completion of the A–G course requirements. Eligible activities may include, but are not limited to, either of the following:
 - a) Providing teachers, administrators, and counselors with professional development opportunities to improve the LEA’s A–G completion rate.
 - b) Developing comprehensive advising plans and pupil supports, including tutoring programs, to improve the LEA’s A–G completion rate.
- 11) Provides that the Legislature encourages LEA’s to direct A–G Success Grant funds towards pupils in danger of not achieving a grade of “C” or better in A–G courses.
- 12) Requires a grant recipient to develop a plan describing how the funds received under this section will increase or improve services for unduplicated pupils to improve A–G eligibility, and requires the plan to include information regarding how it aligns with the LEA’s local control and accountability plan; include a description of the extent to which all pupils within the LEA, particularly unduplicated pupils, will have access to A–G courses approved by the UC; and, in order to ensure community and stakeholder input, be discussed at a regularly scheduled meeting by LEA and adopted at a subsequent regularly scheduled meeting.
- 13) Requires a grant recipient to report to the SPI on or before December 31, 2023, on how they are measuring the impact of the funds received under this section on its A–G completion rate, as identified within their plan, and the outcomes based on those measurements.
- 14) Requires the CDE to compile the information reported and submit a report to the appropriate policy and fiscal committees of the Legislature on or before April 30,

2024, and to update the State Board of Education (SBE) on the contents of that report at a regularly scheduled meeting of the state board.

- 15) Requires a grant recipient to report to the SPI on or before August 31, 2026, on final outcomes that measure the impact of the funds received on its A–G completion rate.
- 16) Requires the SPI to annually post on the CDE’s internet website in an easily accessible location a list of each LEA’s and each individual high school’s A–G completion rate.
- 17) Provides the following definitions for its purposes:
 - a) “A–G completion rate” means the percentage of pupils who have satisfied the A–G subject matter requirements for admission to the UC/CSU with a grade of “C” or better in each of the required courses upon graduation for the prior year.
 - b) “A–G course” means a course that may be used to satisfy the A–G subject matter requirements for admission to the UC/CSU.
 - c) “A–G eligibility” means the pupil has satisfied the A–G subject matter requirements for admission to the UC/CSU with a grade of “C” or better in each of the required courses.
 - d) “Local educational agency” means a school district, county office of education, or charter school.
 - e) “Unduplicated pupil” has the same meaning for purposes of the local control funding formula.
- 17) Expressly includes “the A–G subject matter requirements for admission to the UC/CSU” in the description of a course of study fulfilling the requirements and prerequisites for admission to the California public institutions of postsecondary that school districts maintaining any of grades 7 to 12, inclusive, are required to offer to all otherwise qualified pupils in those grades.
- 18) Commencing with the 2026–27 school year, requires to each county office of education and charter school maintaining any of grades 7 to 12, inclusive, to also offer to all otherwise qualified pupils in those grades a course of study fulfilling the requirements and prerequisites for admission to the California public institutions of postsecondary education, including, but not limited to, the A–G subject matter requirements for admission to the UC/CSU, and to provide a timely opportunity to each of those pupils to enroll within a four-year period in each course necessary to fulfill those requirements and prerequisites prior to before graduation from high school.
- 19) Adds the following information to the required notification that school districts must provide the parent or guardian of each minor pupil enrolled in any of grades

9 to 12, inclusive, and applies to notification requirement to school districts, county offices of education, and charter schools:

- a) A brief explanation of the A–G course requirements for college admission.
 - b) Whether the LEA has adopted the A–G course requirements for college admissions into its local graduation requirements.
 - c) The A–G completion rate for each high school within the local educational agency.
 - d) Notification that if a pupil does not complete the A–G course requirements for college admission with a grade of “C” or better in each of the required courses, the pupil is not eligible for admission to the UC/CSU directly from high school.
 - e) The current internet website that offer those courses online by the UC.
- 20) Requires a local educational agency offering grade 8 shall provide the parent or guardian of each minor pupil enrolled in grade 8 in the local educational agency with written notification that, to the extent possible, shall not exceed one page in length and that includes all of the following:
- a) A brief explanation of the A–G course requirements for college admission.
 - b) The A–G completion rate for each high school within the LEA, if applicable, and within the pupil’s school district of residence for grade 9, as determined by the pupil’s current address.
 - c) Notification that if a pupil does not complete the A–G course requirements for college admission with a grade of “C” or better in each of the required courses, the pupil is not eligible for admission to the UC/CSU directly from high school.
 - d) A list of the current UC/CSU internet websites that help pupils and their families learn about college admission requirements, that list high school courses that have been certified by the UC as satisfying the requirements for admission to the UC/CSU, and that offer those courses online by the UC.
- 21) Repeals language relating to the expired College Readiness Block Grant.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author’s office, “In California, our current statewide high school graduation requirements—which date back to the early 1980’s—are out of alignment with the minimum admission requirements to the UC and the CSU, known as the ‘UC/CSU A-G course requirements.’ Local educational agencies are also authorized to establish their own additional graduation requirements. Many local educational agencies have instituted graduation requirements that go beyond the minimum statewide requirements,

and some have gone so far as to incorporate the UC/CSU A-G course requirement.

"This dichotomy, both between the state's minimum graduation requirements and the UC/CSU admission requirements, and amongst LEA's, creates inequitable outcomes for California students and their eligibility to attend the UC or CSU. As a result, only half of California high school graduates are eligible for admission to our state's public universities, and are some of the state's most disadvantaged students are eligible at even lower rates."

2) **UC/CSU A-G course requirements.** High school students are required to take a total of 15 courses across seven subject areas just to be eligible to attend the UC or CSU directly from high school. Additionally, a student must receive a grade of "C" or better in each course for that course to count toward the requirement. Those requirements are as follows:

- Two years of history/social science, including one year of world history, cultures and historical geography and one year of U.S. history, or one-half year of U.S. history and one-half year of American government or civics.
- Four years of college preparatory English that integrates reading of classic and modern literature, frequent and regular writing, and practice listening and speaking.
- Three years of college-preparatory math, including or integrating the topics covered in elementary and advanced algebra and two- and three-dimensional geometry.
- Two years of laboratory science providing fundamental knowledge in at least two of the three disciplines of biology, chemistry and physics.
- Two years of the same language other than English or equivalent to the second level of high school instruction.
- One year of visual and performing arts chosen from dance, music, theater or the visual arts.
- One year of a college-preparatory elective beyond those used to satisfy the requirements above, or courses that have been approved solely in the elective area.

Additionally, the CSU recently began considering a 4th year of math, known as "quantitative reasoning," and the UC academic senate has proposed adding a 3rd year of science as a requirements.

Statewide graduation requirements vs local graduation requirements. The statewide minimum graduation requirements are significantly less robust than the UC/CSU. Since the 1986-87 school year, the Education Code has required students receiving a diploma from a California high school to have completed all

of the following one-year (unless otherwise specified) courses while in high school:

- Three courses in English.
- Two courses in mathematics, including one year of Algebra I.
- Two courses in science, including biological and physical sciences.
- Three courses in social studies, including United States history and geography; world history, culture, and geography; a one-semester course in American government and civics, and a one-semester course in economics.
- One course in visual or performing arts, foreign language, or commencing with the 2012-13 school year, career technical education.
- Two courses in physical education.

Existing law authorizes local school district governing boards to impose additional graduation requirements beyond the state-mandated graduation requirements, and some school districts and charter schools have incorporated the UC/CSU A-G admission requirements into their local graduation requirements, including the two largest school districts in the state: Los Angeles Unified School District and San Diego Unified School District. However, because the state does not track local graduation requirements, it is unknown exactly how many school districts and charter schools have done so.

- 3) ***UC/CSU eligibility statewide.*** According to data from CDE, “only 50.9% of all students who graduate from a California public school meet the minimum requirements to attend the UC or CSU. The numbers are worse for our most disadvantaged students: 42.8% for those who are from socioeconomically disadvantaged families, 29.2% for homeless students, 24.7% for English learners, and just 20.1% for our foster youth.” The bill’s focus on LEA’s that graduate fewer than 45% of their students with UC/CSU would focus its resources of the lowest performing LEAs, and its distribution formula, based on unduplicated pupils, would further ensure that of those lowest performing LEAs, those with larger proportions of those student subgroups with the greatest need receive the most funding. At present, the bill would fund access grants for LEAs that graduated approximately 35% of all graduates as eligible for admission to UC or CSU.
- 4) ***The danger of a “D” grade.*** Unlike the UC/CSU admission requirements, which require a grade of “C” or better in each course, many LEAs that have incorporated the A-G requirements into their local graduation requirements have done so without requiring a grade of “C” or better. In some ways, this creates a false promise of college eligibility because some of those students will have graduated high school from an LEA with A-G graduation requirements, but because they may have received a “D” in even a single A-G course, they are not

eligible for admission to the UC/CSU. Conversely, LEAs who might choose to include the grade "C" requirement in A-G courses risk having more students not actually graduate. To combat this dilemma, this bill proposes \$50 million in "success" grants for these LEAs that have incorporated the A-G requirement and encourages them to direct those funds toward student supports, including tutoring programs, for students in danger of receiving a "D" in A-G courses.

- 5) **Previous Legislation.** SB 828 (Committee on Budget and Fiscal Review, Ch. 29, Stats. 2016) established the College Readiness Block Grant, a \$200,000,000 grant program to increase the college readiness and eligibility of California public high school students, especially those who are low income, English learners, and foster youth. Eligible activities included:
- a) Providing teachers, administrators, and counselors with professional development opportunities to improve A-G completion rates, pupil college-going rates, and college readiness of pupils, including the provision of honors and Advanced Placement courses.
 - b) Provision of counseling services to students and their families regarding college admission requirements and financial aid programs.
 - c) Developing or purchasing materials that support college readiness, including those that support high performance on admissions assessments.
 - d) Developing comprehensive advising plants to support student completion of A-G requirements.
 - e) Implementing and strengthening collaborative partnerships between high schools and postsecondary institutions, including, but not limited to, existing early academic outreach partnerships with the UC and the CSU.
 - f) Providing subsidies to pay fees for advanced placement exams for unduplicated pupils, as defined under specified LCFF provisions.
 - g) Expand access to opportunities to satisfy A-G requirements to all pupils, including but not limited to, coursework and new or expanded partnerships with secondary or postsecondary institutions.

SUPPORT

Asian Americans Advancing Justice – California (Co-sponsor)
 College for All Coalition (Co-Sponsor)
 Asian Law Center
 AYPAL
 Campaign for College Opportunity
 Empowering Pacific Islander Communities (EPIC)
 Parent Organization Network
 Southeast Asia Resource Action Center
 The Education Trust – West

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 566 **Hearing Date:** March 10, 2021
Author: Leyva
Version: February 18, 2021
Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: Public postsecondary education: California State University: support staff employees: merit salary adjustments.

SUMMARY

This bill requires each support staff employee of the California State University (CSU) to receive an annual five percent merit salary adjustment upon meeting the standards for satisfactory performance in their position.

BACKGROUND

Existing law establishes the Higher Education Employer-Employee Relations Act (HEERA) to provide a statutory framework to regulate labor relations at the University of California, CSU, and Hastings College of Law, and their employees. The Public Employment Relations Board has the authority to enforce HEERA.

Employees at CSU are explicitly exempt from civil service, and their salary terms are a negotiated item in collective bargaining agreements and subject to approval by the Trustees.

ANALYSIS

This bill:

- 1) Requires the CSU, upon completion of each CSU support staff employees' first year and after completion of each subsequent year, to provide a 5 percent merit salary intermediate step adjustment.
- 2) Specifies that the merit adjustment may only occur when employees meet the standard for satisfactory performance in the position, as determined by the employees' appropriate administrator pursuant to a uniform employee evaluation process.
- 3) Requires that on or after the operative date of this measure, any language that effectuates its provisions shall automatically be incorporated into any pertinent memorandum of understanding or collective bargaining agreement entered into, or renewed, by the CSU.
- 4) Mandates that any costs the CSU incurs to implement this measure shall be paid for by existing CSU resources.

- 5) Makes the provisions of this measure inoperative on July 1, 2032.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "In 1996, following an impasse in contract negotiations, the CSU Board of Trustees took an unprecedented action by unilaterally abolishing employee salary steps that were in place for 50 years. For 25 years, the CSU has now been unwilling to reinstate salary steps. It remains the only state agency that eliminated salary steps for its support staff and is the only state agency that does not provide salary steps for its support staff.

Over the years, CSU employee salaries have not progressed in an equitable manner to their counterparts and attempts to address this inequity have been futile.

The inability by support staff to move through salary ranges has resulted in new hires earning higher salaries than existing employees. On average, new hires earn \$780 per month more than existing employees who work in the same classification. This disparity has created a nearly \$110 million inversion gap between the salaries of newly-hired and long-employed CSU employees.

As CSU staff salaries became marginalized, a 2017 state audit determined that CSU management positions grew at twice the rate of support staff, with annual earnings of half a billion dollars for those management positions. The California State Auditor concluded that the CSU could not justify the growth in management positions or their compensation.

SB 566 will correct the inequities that have existed for CSU support staff for 25 years and ensure that they have the right to earn a wage that is competitive and on par with their counterparts. By restoring 5 percent salary steps, this bill will ensure that 20,000 CSU employees have the same wage opportunities as every other state employee."

- 2) ***Salary step increases at other state agencies.*** State law charges the California Department of Human Resources (CalHR) with establishing and adjusting salary ranges for each position class in state civil service, with each salary range consisting of minimum and maximum salary limits and intermediate steps within the limits to govern salary adjustments. State law also establishes the merit salary adjustment (MSA), an annual salary increase for employees below the maximum step of their salary range. The MSA is contingent on satisfactory job performance and is effective on the employee's anniversary date. The amount of each step increase—defined for most represented employees in a Memorandum of Understanding and in CalHR regulations for non-represented employees—is five percent.

While CSU employees are exempt from civil service, they received MSAs consistent with civil service employees until the mid-1990s. The 1986 state budget eliminated CSU's dedicated funding stream for MSAs and CSU was no longer able to support them out of their general fund by 1996.

- 3) ***CSU collective bargaining history and status.*** In April 1994, during collective bargaining, the CSU Trustees proposed that MSAs be replaced with discretionary performance pay. Labor fought this proposal, but after exhausting the statutory impasse procedures of mediation and fact-finding, the CSU withdrew salary steps on April 1, 1996. The MSA was replaced with the Service Salary Increase (SSI), which was set at 2.5 percent. Unlike MSAs, SSIs are not automatic and are awarded only in years when they are funded.

As part of the bargaining to eliminate MSAs, CSU widened its salary ranges to accommodate compensation flexibility. When the CSU had salary steps in effect, the range spread varied from 15 to 35 percent. Today, those ranges are much more expansive. For example, the salary range for CSU Employees Union (CSUEU) classifications can vary from 32 to 170 percent.

In January 2020, the CSU and CSUEU began bargaining for a successor agreement to the existing contract that was set to expire on June 30, 2020. The parties mutually agreed on May 15, 2020 to a 2-year extension to the existing agreement, with no other changes. The agreement now expires on June 30, 2022, and the parties will resume successor bargaining around January 2022.

According to CSUEU, the 2020 contract negotiations were disrupted by the coronavirus pandemic, and the CSU argued the pandemic removed its obligation to negotiate salary steps. It was under this bargaining climate that CSUEU agreed to extend its existing contract for two years, while continuing to encourage the CSU administration to reconvene salary step negotiations.

- 4) ***Wages are within the mandatory scope of the Higher Education Employer-Employee Relations Act.*** California's Higher Education Employee-Employer Relations Act (HEERA) is the law that governs labor relations between public institutions of higher education and their employees. Under HEERA, terms and conditions of employment, such as wages, hours, and working conditions are considered to be within the mandatory scope of bargaining or scope of representation. Matters that are not within the scope of representation include: "consideration of the merits, necessity, or organization of any service, activity, or program established by statute or regulations adopted by the trustees, except for the terms and conditions of employment of employees who may be affected thereby."

The Public Employer-Employee Relations Board (PERB) is responsible for enforcing HEERA. PERB has issued thousands of decisions regarding what matters are within the scope of HEERA, which generally are those matters that: (1) are reasonably related to wages, hours, or conditions of employment, (2) areas where management and employees are likely to conflict, and (3) areas that would not significantly abridge the employer's freedom to exercise managerial choices.

- 5) ***Audit of California State University (CSU) management growth and compensation.*** In stating the need for this bill, the sponsors cite an April 2017 report by the California State Auditor concerning the growth and compensation of

CSU management personnel. The report finds that stronger oversight is needed for hiring and compensating management personnel and for monitoring campus budgets. The report specifically cites the following:

- a) Staffing levels and compensation for CSU management personnel have increased at a faster rate than for other employee groups. While staffing levels and compensation for CSU employees have grown over a nine-year period, the number and compensation of management personnel significantly outpaced those of other types of employees.
 - b) Campuses do not adequately oversee their budgets, of the six campuses audited none had written policies in place that require periodic comparisons of spending levels to budget limits and only two documented the results for their budget oversight.
 - c) State law exempts CSU from many of the budget oversight mechanisms that apply to other state agencies; CSU does not need authorization to establish new employee positions.
 - d) CSU has recently granted minimal raises to its executives, but board policy does not cap reimbursements of relocation costs. CSU granted nominal raises to its executives who also receive substantial amounts of other compensation, such as car and housing allowances.
- 6) The report also makes the following recommendations:
- a) The Legislature should require the CSU to submit annual information that demonstrates how its activities meet the State's goals for students.
 - b) The Chancellor's Office should take action to:
 - i) Require that its departments and campuses prepare and maintain written justifications for any proposed new management positions.
 - ii) Ensure campus create, implement and adhere to written merit evaluation plans for management personnel.
 - iii) Work with the board to develop, approve, and implement an executive compensation policy that prohibits the use of foundation funds to pay campus presidents and establish caps on the relocation reimbursements it pays to executives as well as require campuses to establish similar caps for nonexecutive staff.
- 7) **CSU response to audit recommendations.** In response to the recommendations made by the California State Auditor, the California State University (CSU) Chancellor's Office adopted two policies relative to management personnel. The adopted policies require:
- a) Written justifications for both the purpose and the specific number of proposed additional management positions. The justification should

include the number of management personnel to be hired for a specific position as well as information about assessments of skills, knowledge and other qualifications outlined in regulations.

- b) The creation and implementation of and adherence to a written merit evaluation plan for management personnel. In addition campuses and the Chancellor's Office must comply with their written merit evaluation plans and grant raises to management personnel based on merit as evidenced by current, documented performance evaluations.

- 8) **Similar measures have been vetoed by previous Governor and held at the directive of the current Governor.** In 2018, a substantially similar measure, AB 1231 (Weber, 2018) was vetoed by former Governor Brown, who stated:

"While the bill is laudable in its goals of trying to raise wages and create salary progression for support staff at the CSU, most of whom are within lower paid classifications, collective bargaining should be the tool to effectuate such changes. I do believe, however, that the CSU should undertake a diligent examination of pay disparities and opportunities for upward mobility for its lowest wage workers.

As I stated in a message to the University of California last year, "As the UC prides itself on being an agent of social mobility for students, it might follow that UC could similarly be an agent of social mobility for lower-wage workers at its campuses." I believe that CSU can and should strive to do the same."

In 2019, another substantially similar measure, AB 369 (Weber, 2019) was held on the Senate Floor pending further attempts by CSUEU to negotiate a salary steps agreement per a written directive by Governor Newsom, who stated:

"...I urge the CSU to address a longstanding inequity faced by dedicated and skilled employees who are facing stagnant wages and declining market rate salaries due to a lack of merit steps...it is my expectation that the CSU tackle this issue head on during upcoming collective bargaining negotiations.

"The upcoming negotiations should result in an agreement with our labor partners that erases the inversion gap, provides salary steps, and fairly and justly compensates these staff for their hard work."

- 9) **Arguments in support.** Proponents of this bill argue that salary steps are foundational to public service, and can be found at every state agency, as well as the other public higher education systems. For 25 years, the CSU has been unwilling to reinstate salary steps, despite the failure of the existing salary structure and the inability of employees to earn a fair and equitable wage. As employee salaries have become marginalized, a 2017 state audit showed CSU management positions grew at twice the rate of support staff, with a half-billion dollars per year total compensation that far outpaced the salary increases of other employees.

- 9) **Arguments in opposition.** The CSU has conceded that salary compression and inversion are real issues, but staff and faculty have addressed these issues differently through collective bargaining. As part of the bargaining process, the CSU has the ability to provide General Salary Increases, Service Salary Increases (designed to address specific pay inequities), and In Range Progression (IRP) (pay increases initiated by either the employee or the CSU).

The IRP process, in particular, has been a tool used by CSU and its employees to address salary inversion. Since 2014-15, nearly 9,500 employees have been approved for over 12,000 IRP requests totaling \$37.5 million annually. Of these, 7,259 were CSUEU employees representing about \$28 million in annual costs.

Further, CSU notes that they use an open range salary structure that allows campuses to compensate employees at competitive market value and account for geographical differences. The CSU ranges are very wide and some positions have a 100 percent or more range, which is different from state civil service. For example, an analyst could increase their salary by 146% under this bill. The minimum salary is \$52,464 per year and they would get 5 percent steps until they reach \$129,504 per year, in addition to any negotiated pay increases. Narrowing the ranges for CSU positions in response to this bill would have to be done through additional collective bargaining.

Lastly, CSU has stated that discussions about salary steps would have begun last year with CSUEU had the coronavirus pandemic not created more pressing issues for CSU and its employees to address.

SUPPORT

California State University Employees Union (co-sponsor)
Service Employees International Union (co-sponsor)
American Federation of State, County and Municipal Employees
California Labor Federation
California Nurses Association
California School Employees Association
California State Council of Service Employees
California Teamsters Public Affairs Council

OPPOSITION

California State University

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