
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: SB 607 **Hearing Date:** April 5, 2017
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Urgency: No **Fiscal:** No
Consultant: Brandon Darnell

Subject: Pupil discipline: suspensions and expulsions: willful defiance: suspension by teacher

SUMMARY

This bill permanently eliminates the option to suspend or recommend for expulsion any pupil, regardless of grade, who disrupted school activities or otherwise willfully defied valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

BACKGROUND

Existing law:

- 1) Prohibits a pupil from being suspended or recommended for expulsion unless the superintendent of the school district or the principal of the school determines that the pupil has committed certain acts, including, *among other acts*, all of the following:
 - a) Caused, attempted to cause, or threatened to cause physical injury to another person.
 - b) Willfully used force or violence upon the person of another, except in self-defense.
 - c) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, except as specified.
 - d) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance, an alcoholic beverage, or an intoxicant of any kind.
 - e) Committed or attempted to commit robbery or extortion.
 - f) Caused or attempted to cause damage to school property or private property.
 - g) Stole or attempted to steal school property or private property.
 - i) Committed an obscene act or engaged in habitual profanity or vulgarity.

- j) Committed or attempted to commit a sexual assault or committed sexual battery.
 - k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
 - l) Engaged in, or attempted to engage in, hazing.
 - m) Engaged in an act of bullying. (Education Code § 48900)
- 2) Until July 1, 2018, prohibits a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, from being suspended for disrupting school activities or otherwise willfully defying the authority of school officials. (EC § 48900(k)(2))
 - 3) Until July 1, 2018, prohibits a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, from being recommended for expulsions for disrupting school activities or otherwise willfully defying the authority of school officials. (EC § 48900)(k)(2))
 - 4) Authorizes a pupil enrolled in any of grades 4 to 12, inclusive, to be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment. (EC § 48900.4)
 - 5) Authorizes school district superintendents and school principals to use discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior, as specified. (EC § 48900(v))
 - 6) States that suspension, including supervised suspension, shall be imposed only when other means of correction fail to bring about proper conduct, but authorizes a pupil, including a pupil with exceptional needs, to be suspended upon a first offense for certain acts (*not* including disrupting school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties) or the pupil's presence causes a danger to persons. (EC § 48900.5)
 - 7) Specifies that other means of correction include, but are not limited to:
 - a) A conference between school personnel, the pupil's parent or guardian, and the pupil.

- b) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.
 - c) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents.
 - d) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a 504 plan.
 - e) Enrollment in a program for teaching prosocial behavior or anger management.
 - f) Participation in a restorative justice program.
 - g) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.
 - h) After-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.
 - i) Community service, as specified. (Education Code §48900.5)
- 8) States that schools should consider implementing at least one of the following if the number of pupils suspended during the prior school year exceeded 30 percent of the school's enrollment:
- a) A supervised suspension program.
 - b) A progressive discipline approach during the schoolday on campus (as an alternative to off-campus suspension), using any of the following activities:
 - i) Conferences between the school staff, parents and pupils.
 - ii) Referral to the school counselor, psychologist, child welfare attendance personnel, or other school support service staff.
 - iii) Detention.
 - iv) Study teams, guidance teams, resource panel teams, or other assessment-related teams. (EC § 48911.2)

- 9) Authorizes teachers to suspend pupils from class for the day and the following day. If the pupil is to remain on campus during that suspension, the pupil must be under appropriate supervision. Teachers must ask the parent to attend a parent-teacher conference regarding the suspension. Pupils are prohibited from returning to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher and principal.
(EC § 48910)

ANALYSIS

This bill permanently eliminates the option to suspend or recommend for expulsion any pupil, regardless of grade level, who disrupted school activities or otherwise willfully defied valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. Specifically, this bill:

- 1) Extends the prohibition against suspending or recommending for expulsion any pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, who disrupted school activities or otherwise willfully defied valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties, to all grade levels.
- 2) Deletes the July 1, 2018 sunset date that applied to the prohibition against suspending or recommending for expulsion any pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, who disrupted school activities or otherwise willfully defied valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
- 3) Encourages, rather than only authorizing, a superintendent of the school district or principal to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age appropriate and designed to address and correct the pupil's specific misbehavior.
- 4) Retains the authority for teachers to suspend pupils from class for the day and the following day who disrupt school activities or otherwise willfully defied valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
- 5) States that it is the intent of the Legislature:
 - a) To provide teachers and school administrators with the means to foster safe and supportive learning environments for all children in California.
 - b) To ensure that pupils who transfer between multiple classrooms, taught by multiple teachers, be allowed to attend all remaining classes from which they have not been removed for disciplinary reasons.

- c) That the department's Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Existing law provides that students in grades 4-12 can be suspended for disruption/defiance, defined simply as: *disrupting school activities or otherwise willfully defying the valid authority of school staff.* Without regard to the severity, under this highly subjective category, students can be suspended and denied valuable instructional time. Under this highly subjective category, students are sent to an empty home, with no supervision, and denied valuable instructional time for anything from failing to turn in homework, not paying attention, or refusing to follow directions, taking off a coat or hat, or swearing in class. If the existing sunset is not repealed before July 1, 2018, they could once again be expelled from a district for such offenses."

Further, according to the author, "More than two decades of research has confirmed that out-of-school suspensions do not work. They do not improve student behavior and, in fact, often exacerbate the problem... Overall, the evidence shows the following: there is no research base to support frequent suspension or expulsion in response to non-violent and mundane forms of adolescent misbehavior; large disparities by race, gender, and disability status are evidence in the use of these punishments; frequent suspension and expulsions are association with negative outcomes; and better alternatives are available."

- 2) ***Discretion.*** This bill eliminates the option for schools to suspend or recommend for expulsion a pupil (in any grade) who disrupted school activities or otherwise willfully defied the authority of school officials. However, this bill retains the authority for teachers to continue to suspend from class for up to two days a pupil in any grade who disrupts school activities or otherwise willfully defies the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

Does additionally eliminating the ability for schools to suspend a pupil in grades 4-12 for disrupting school activities or otherwise willfully defying the authority of school officials provide sufficient discretion to schools?

Is this bill a reasonable compromise between prohibiting suspension and allowing teachers to continue to suspend pupils from class for disrupting school activities or otherwise willfully defying the authority of school officials provide sufficient discretion to schools?

- 3) ***Equity concerns in subjective discipline.*** According to the author, "In a report analyzing 2006 data collected by the U.S. Department of Education's Office of

Civil Rights, more than 28% of Black male middle school students had been suspended at least once, which was nearly three times the 10% rate for white males and compelled new efforts to address these disparities. Further, 18% of Black females in middle school were suspended, more than four times as often as white females (45%). African American students are far more likely than their white classmates to be punished for reasons that require the judgment of a teacher or administrator, such as defiance or disruption.”

- 4) ***Suspensions are declining.*** This bill deletes the July 1, 2018 sunset date for the prohibition against K-3 suspensions for disrupting school activities or otherwise willfully defying the authority of school officials. The prohibition took effect January 1, 2015. Unfortunately, the California Department of Education (CDE) has not yet released statewide data for suspensions and expulsions for the 2015-16 school year, which was the first full year of implementation, and data from the 2014-15 school years is not broken down by date. However, data from the 2011-12 to 2014-15 school years reveals that suspensions for disruption or willful defiance, and suspensions overall, have been steadily declining.

In the 2011-12 school year there 709,580 total suspensions, approximately 49 percent of which were for disruption or willful defiance. For the 2012-13 school year, those numbers fell to 609,776 and 43 percent, respectfully. For the 2013-14 school year, those numbers continued to decline to 503,101 and 37 percent, respectively. Finally, for the 2014-15 school year, overall suspensions were down to 420,799 and disruption or willful defiance accounted for approximately 31percent of those suspensions. Accordingly, suspensions for disruption or willful defiance are down from 346,294 in 2011-12 to 129,835 in 2014-15.

Before making prohibitions against suspensions and expulsions for disruption or willful defiance permanent, it is appropriate to see more data from CDE regarding suspension/expulsion rates, which could indicate if these prohibitions result in significant increases, particularly for grade levels 6-12, which at present are not subject to the suspension prohibition. ***The committee recommends that the bill be amended*** to make the prohibition against suspensions and expulsions for disruption/willful defiance in K-5 permanent but the prohibition for grades 6-12 subject to a sunset date of July 1, 2028.

- 5) ***Pupil engagement state priority.*** One of the eight state priorities for purposes of local control and accountability plans (LCAPs) and the local control funding formula (LCFF) is pupil engagement, as measured by suspension and expulsion rates. In their LCAPs, school districts, county offices of education, and charter schools have to explain what actions they are taking to achieve the goals they've set for each state priority. Given that LCAPs were first implemented for the 2014-15 school year, the reduction in suspensions for disruption/willful defiance, and suspensions overall, could alternatively be linked to the pupil engagement priority, underscoring additional need to proactively prohibit disruption/willful defiance suspensions specifically.

- 5) ***Previous legislation.*** AB 420 (Dickenson, Ch.660, Stats. 2014) Eliminated, until July 1, 2018, the authority to suspend a pupil enrolled in grades K-3, inclusive, and the authority to recommend for expulsion a pupil enrolled in grades K-12, inclusive, for disrupting school activities or otherwise willfully defying the valid authority of those school personnel engaged in the performance of their duties, as specified.

AB 2242 (Dickinson, 2012) would have prohibited pupils who are found to have disrupted school activities or otherwise willfully defied the authority of school officials from being subject to extended suspension, or recommended for expulsion. AB 2242 was vetoed by the Governor, whose veto message read:

I cannot support limiting the authority of local school leaders, especially at a time when budget cuts have greatly increased class sizes and reduced the number of school personnel. It is important that teachers and school officials retain broad discretion to manage and set the tone in the classroom.

The principle of subsidiarity calls for greater, not less, deference to our elected school boards which are directly accountable to the citizenry.

SUPPORT

Alliance for Boys and Men of Color
 American Civil Liberties Union of California
 Anti-Defamation League
 Black Parallel School Board
 California Conference for Equality and Justice
 California School-based Health Alliance
 Children Now
 Children's Defense Fund – California
 Coalition for Restorative Schools
 Commonwealth Juvenile Justice Program
 Communities United for Restorative Youth Justice
 Dolores Huerta Foundation
 East Bay Community Law Center
 Educators for Excellence Los Angeles
 Fair Chance
 Felony Murder Elimination Project
 Fight Crime: Invest in Kids
 Genders & Sexualities Alliance Network
 InnerCity Struggle
 Khmer Girls in Action
 Lawyers' Committee for Civil Rights of the San Francisco Bay Area
 Legal Advocates for Children & Youth
 Legal Services for Children
 Los Angeles LGBT Center
 National Center for Youth Law
 PolicyLink

Public Counsel
Root & Rebound
Southeast Asia Resource Action Center
W. Haywood Burns Institute
Western Center on Law & Poverty
Young Women's Freedom Center
Youth Justice Coalition

OPPOSITION

None Received

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