

FIX SCHOOL DISCIPLINE BILLS

AB 1729 – FACT SHEET

(Strengthens Other Means of Correction; Amends Education Code ' ' 48900; 48900.5)

WE DID IT. WITH YOUR HELP, FIVE SCHOOL DISCIPLINE REFORM BILLS WERE SIGNED INTO LAW THIS YEAR!

Now the hard work begins! We need your help to make certain that school districts around the state **change their local discipline policies** to follow the law and **educate everyone** about the changes.

What Does AB 1729 Do And How Does It Help Students?

1. **Sets out the legislature’s intent** that alternatives to suspension and expulsion should be used and school exclusion should be avoided and recognizes that vulnerable student groups are receiving the brunt of all discipline removals in California! This is important because it tells school districts who are using harsh and punitive out-of-school discipline and giving more punishments to students of color and others that state law does not support this and that they need to change their practices. Here are a few things that the legislature said:
 - “The overuse of school suspension and expulsion undermines the public policy of this state and does not result in safer school environments or improved pupil behavior.”
 - “School suspension and expulsion are disproportionately imposed on pupils of color, pupils with disabilities, lesbian, gay, bisexual, and transgender pupils, and other vulnerable pupil populations.”
 - “Research has found that nonpunitive classroom discipline . . . are more effective and efficient than suspension and expulsion for addressing the majority of pupil misconduct.”
 - “The public policy of this state is to provide effective interventions for pupils . . . avoid exclusion from school.”
2. **Requires other means of correction be used and FAIL prior to “in-school suspension” in addition to “out-of-school suspension”**. This is important because we want to be sure that schools are working to teach students how to correct their behavior and re-integrate into the school community before they lose valuable instruction time.
3. **Other means of correction may be documented and such documentation can be accessed as a pupil record** through the existing absolute right to records in California law. This is important because it is hard for parents and students to know if the schools have really tried other means of correction before resorting to suspension if districts don’t have a policy that requires school staff to document what they did to help a child before kicking him or her out of school.
4. **Comprehensive list of effective other means of correction:** Provides a comprehensive list of what is recognized as “other means correction,” including school-wide positive behavior support and Restorative Justice. This is critical because school district personnel keep telling us that they don’t know or have forgotten how to use effective “other means of correction” and that is why they are suspending so many children in the state! For most offenses, it is against the law to fail to provide both other means of

correction to students and evidence that those alternatives did not work before suspending a child. **No more excuses!** The law now sets out a clear list of things that schools can and should put in place to help their students and provides guidance regarding the most effective methods out there. Send school districts to **FixSchoolDiscipline.org** so they can learn more about the best practices in the state and how other school leaders are successfully implementing them!

5. **Narrows the circumstances under which students may be suspended for a first offense:** Under AB 1729, for the first time, other means of correction must have failed prior to suspension in cases where a student's presence threatens to disrupt instructional process or causes a danger to property. In California, we know that one of the most common reasons a student is given an out-of-school suspension is because of alleged disruption or defiance. This important change means that schools must now have a system in place to help the student with behavior issues and find other alternatives before resorting to the quick trigger of out-of-school suspension.

At the end of this fact sheet, you can find the exact text of AB 1729. The bill goes into effect on January 1, 2013!

How can you help make certain your school district follows the new law?

California law is clear: school board rules and policies governing discipline must be consistent with law and parents have a right to be informed in advance about discipline rules and procedures. Educ. Code §§ 35291; 51101. When they develop new rules and procedures, schools must get input and participation from a parent representative. Educ. Code§ 35291.5.

When the new law takes effect on January 1, 2013, you can help make certain your school district is following it by:

1. **Requesting a copy of the district's policies, rules, and procedure governing discipline.**
 - Where can you find them?
 - Parent/student handbook
 - School district's website
2. **Checking:** Do they include the new laws?
3. **Advocating** for the school district and your local school to change the policies and to educate all school personnel, parents, and students!
4. **Meet with the Superintendent (and/or principal)** and request that your school board members hold a hearing on the changes and update discipline policies. Bring other parents, students and community members who care about fixing school discipline.
5. **Report any problems:** If you see that students' rights are being violated or a school district refuses to follow the law, go to FixSchoolDiscipline.org and click on "I Need Help" to report any problems you see.

What can I do to help?

With support from the new law, you can advocate for the District to:

- **Adopt an “other means of correction” district-wide policy that focuses on school-wide strategies** in the new law, like Restorative Justice and School-Wide Positive Behavior Interventions and Supports. Make certain the other means of correction offered are consistent across the district and offered to all students, and reduce suspensions and expulsions.
 - Go to **FixSchoolDiscipline.org** to find out more about other school districts who have already adopted resolutions or policies so you can bring these to the attention of your school district. In December, come back to the website and you will find an easy-to-use Fix School Discipline Toolkit with everything to get you started and convince your district to adopt and implement alternatives that reduce suspensions in your community and template “alternatives” policies and matrixes!
- Use the new law as a tool to push the District to adopt a database and practices that ensure that school officials document the alternatives to school exclusion they use to address student behaviors while keeping students on track and learning. Remember, before most in-school and out-of-school suspensions are issued, the school must show other means have been used and have failed! If they don’t have a clear policy on what is required and cannot tell you what other means they used first, the suspension is not supported by law.
- Make certain school districts change their policies to delete “property” or “threats to disrupt the instructional process” as things for which a student can be suspended as a first offense and include that in-school suspension should not occur unless other means of correction are tried first.

So, what **EXACTLY** does the law say?

The specific changes to existing law are in bold, in italics and underlined below:

SECTION 1. The Legislature finds and declares all of the following: (a) The public policy of this state is to ensure that school discipline policies and practices support the creation of safe, positive, supportive, and equitable school environments where pupils can learn.

(b) The overuse of school suspension and expulsion undermines the public policy of this state and does not result in safer school environments or improved pupil behavior. Moreover, such highly punitive, exclusionary

practices are associated with lower academic achievement, lower graduation rates, and a worse overall school climate.

(c) Failing to teach and develop social and behavior skills in pupils leads to the depletion of funding through decreased average daily attendance, increased rates of teacher turnover, and increased pupil dropout rates.

(d) School suspension and expulsion are disproportionately imposed on pupils of color, pupils with disabilities, lesbian, gay, bisexual, and transgender pupils, and other vulnerable pupil populations.

(e) In 2006, the suspension rate of African American elementary and secondary pupils in this state was more than double the rate of suspensions for White, Hispanic, or Asian pupils, and there is no evidence demonstrating that pupils of color or other pupil populations misbehave at greater rates than their peers.

(f) Research has found that nonpunitive classroom discipline and in-school discipline strategies are more effective and efficient than suspension and expulsion for addressing the majority of pupil misconduct.

(g) The public policy of this state is to provide effective interventions for pupils who engage in acts of problematic behavior to help them change their behavior and avoid exclusion from school.

(h) The public policy of this state is to ensure that school discipline policies and practices are implemented and enforced evenhandedly and are not disproportionately applied to any class or group of pupils.

(i) The intent of this act is to clarify existing law on school discipline and ensure the discretion of superintendents of schools and principals to implement school discipline policies and practices other than school suspension and expulsion.

Education Code (EC) ' 48900. A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent **of the school district** or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive.

(g) Stolen ~~Stolen~~ Stole or attempted to steal school property or private property. . .

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for the purpose ~~the purpose~~ purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both...

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section, unless that ~~the~~ the act is related to a school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to a school activity or ~~school~~ school attendance that occur at any time, including, but not limited to, any of the following: . . .

(v) A ~~For a pupil subject to discipline under this section, a~~ superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section ~~that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.~~

EC ' 48900.5. (a) Suspension, including supervised suspension as described in Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed pursuant to Section 49069. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended, **subject to Section 1415 of Title 20 of the United States Code,** for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process.

(b) Other means of correction include, but are not limited to, the following:

(1) A conference between school personnel, the pupil's parent or guardian, and the pupil.

(2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.

(3) 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.

(4) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)).

(5) Enrollment in a program for teaching prosocial behavior or anger management.

(6) Participation in a restorative justice program.

(7) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.

(8) 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.

(9) Any of the alternatives described in Section 48900.6.