

FIX SCHOOL DISCIPLINE BILLS

SB 1111 – FACT SHEET

(Ensures Fair and Successful School Placements in County Community Schools & Closes an Unfair Loophole in the Discipline Code; Amends Education Code §§1981, 1983, 48918 & adds §1981.5)

WITH YOUR HELP, SEVERAL SCHOOL REFORM BILLS WERE SIGNED INTO LAW THIS YEAR!

We need your help to make certain that school districts around the state change their local policies to follow the law and educate everyone about the changes.

What Does SB 1111 Do & How Does It Help Students?

County community schools enroll over 15,000 students throughout the state. These alternative schools were originally designed to be short-term placements to help the most at-risk students get back on a positive track. To be successful, when a student transfers to county community schools the expected results should include addressing the educational needs of the student, reaching positive educational outcomes, and successfully transferring the student back to a comprehensive school after a short period of time.

In the past, transfers to county community schools have occurred with minimal consideration of the placement's educational fit for the student or whether there is even space for the student at the school. This has resulted in poor educational outcomes and high dropout and push-out rates, which disproportionately impact youth of color. African-American and Latino youth comprised 69% of total county community school enrollment in 2013-14 and these schools had an aggregate dropout rate of 35% in 2012-13.



1. SB 1111 addresses the transfer rights of students referred to county community schools as follows:

Youth on Probation or Parole:

Probation youth cannot be transferred to such a school by a probation officer without parent or guardian consent or an expulsion or court order that requires the transfer.

- If a probation youth is transferred to a county community in violation of law or the placement is not meeting the child's educational needs, the attorney or person holding education rights can address any concerns at a regularly scheduled court hearing.
- If a youth is on probation or parole and not in attendance at any school, he or she may consent to but cannot be required to enroll in county community school.

Effective School Attendance Review Boards

Transfers:

- If a School Attendance Review Board (SARB) recommends placement in a county community school, a student shall not be referred by the school district unless, the school district and county office determine space is available, the school can meet the educational needs, and the education rights holder has not objected based on reasonable safety concerns, location or transportation access, or because the school does not meet the pupil's educational needs.
- If an education rights holder objects, the school district must either address the concern or find another alternative place in a comprehensive or continuation school within the district.
- If all other options have been offered, the school district may still refer the pupil to the county community school.

Right to Return to Prior School or Another Appropriate School in The District:

- Any pupil transferred based on a SARB recommendation has the right to return to his or her prior school or another appropriate school in the District at the end of the semester following the semester when the acts leading to referral occurred. This right is available until the pupil turns 19, except that youth in special education have the right to return until they turn 22.

Homeless and Foster Youth Cannot Be Automatically Placed:

- Clarifies that federal and state law prohibits placement of homeless and foster youth based on their status in alternative placements, like a county community school. Such youth have a right to stay in their school of origin or a school that meets their best interests.

Voluntary Transfers to County Community Schools and Right to Rescind Placement:

- When a pupil's education rights holder requests a transfer to a County Community school, the school district must determine that the placement will promote the student's

educational interests and that there is space available before transferring the student.

- Clarifies that students who voluntarily transfer but later decide to return to their school district shall be immediately reenrolled in their prior school or, with education rights holder consent, another appropriate school.

Enrollment After Being Readmitted from Expulsion or Court-Ordered Placement:

- A student who has been readmitted in his or her school district after successfully completing a term of expulsion or after a court-ordered school placement has been completed has the right to return to his or her former school or another comprehensive school in the District.

Independent Study is Voluntary and Requires Parental Consent:

- Makes it clear that County Community Schools cannot place students in independent study without parental consent and other protections in the Education Code.

Rights of Students with Special Needs and English Learners:

- Ensures that students with special needs and English Learner students receive the protections they are entitled to if they attend these schools and reiterates that such students cannot be transferred to county community schools that cannot meet their needs.

SB 1111 will improve student success, help local county education entities meet the needs of these students, reduce improper transfers, and increase graduation rates --- especially among the students most at-risk for school push-out!

2. Students Who Win Expulsion Hearings May Not Be Involuntarily Transferred:

Under current law, students who win their expulsion hearings can be barred from returning to their original school and involuntarily transferred to an alternative school indefinitely without any process to return to their original school. SB 1111

closes this loophole in the discipline code and provides that students who win their expulsion hearings, except those found to have committed a mandatory expulsion offense, have the right to return to their original school and cannot be involuntarily placed in the same county community school as expelled students.

At the end of this fact sheet, you can find the exact text of SB 1111. The bill goes into effect on January 1, 2015!

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

California law is clear, school board policies must be consistent with law and parents have a right to be informed in advance about school rules, including those related to attendance options and residency requirements. Educ. Code §§ 51101; 48980.

What can I do to help?

When the new law takes effect on January 1, 2015, you can help make certain your school district or county office of education is following it by:

1. **Requesting** a copy of the district or county's policies, rules, and procedures governing enrollment, transfers, independent study and discipline from the Superintendent and note you are asking under the Public Records Act.
2. **Checking:** Do the policies, rules or procedures include the new law?
3. **Advocating** for the county office of education, 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 they update enrollment, transfer and discipline policies. Ask them to set up a monitoring process to ensure all transfers are in compliance with

the new law. Bring other parents, students and community members who care about school reform and fixing school discipline.

5. **Spread the word:** Educate parents and students, public defender's offices and parents of students in juvenile court about these new laws.
6. **Ask your school board member for a hearing and information:** Submit a Public Records Act request (a letter where you mention that you would like the information based on the Public Records Act) and/or ask the school board to hold a hearing on the impact of SB 1111, including information about:
 1. The number of students transferred with information about race, ethnicity, language and special needs status;
 2. Whether youth of color are disproportionately impacted by the transfer process?
 3. How many students enrolled in the county community school are currently on Independent Study and why?
 4. How many students need to be informed of the right to return to their prior school or another school in the District on January 1, 2015?
 5. The number of juvenile justice, foster care, and homeless youth enrolled in county community schools and when they will be provided with notice of the right to transfer to a regular, comprehensive school and/or their school of origin;
 6. The number of students who won their expulsion hearing but could not return to their original school and when these youth will receive an opportunity to transfer to the prior school or to request another placement that better meets their educational needs.

7. **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 "Get Support" to report any problems you see.

So, what EXACTLY does the law say?

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

EC §1981 – Amended

The county board of education may enroll pupils in a county community school ~~pupils~~ who are any of the following:

(a) Expelled from a school district for any reason other than those specified in subdivision (a) or (c) of Section 48915.

(b) (1) Referred to a county community school by a school district as a result of the recommendation by a school attendance review board or pupils whose school districts of attendance have, at the request of the pupil's parent or guardian, approved the pupil's enrollment in a county community school. *board. A pupil shall not be referred to a county community school by a school district pursuant to this subdivision unless the school district and the county office of education determine all of the following:*

(A) The county community school has space available to enroll the pupil.

(B) The county community school meets the educational needs of the pupil.

(C) (i) The parent, guardian, or responsible adult of the pupil has not expressly objected to the referral based on one or more of the following reasons:

(I) Reasonable concerns related to the pupil's safety.

(II) Geographic accessibility.

(III) Inability to transport.

(IV) The school does not meet the pupil's educational needs.

(ii) The school district may require the objection to be in writing if it has advised the parent, guardian, or responsible adult that they may object, in writing, for one of these reasons.

(2) If the county community school recommended pursuant to paragraph (1) is not geographically accessible to the pupil, the school attendance review board shall also include in its recommendation a school option for the pupil that is geographically accessible to the pupil and meets the criteria specified in paragraph (1).

(3) If the parent, guardian, or responsible adult of the pupil objects for any of the reasons described in subclauses (I) to (IV), inclusive, of clause (i) of subparagraph (C) of paragraph (1), the school district may either address the express objection or find an alternative placement in another comprehensive or continuation school within the school district. If the school district has offered the pupil all other options, the school district may refer the pupil to the county community school.

(4) The pupil has the right to return to his or her prior school or another appropriate school within his or her school district at the end of the semester following the semester when the acts leading to referral occurred. The right to return shall continue until the end of the pupil's 18th year of age, except that a pupil with exceptional needs, consistent with Section 56041 of this code and Section 1412(a)(1)(A) of Title 20 of the United States Code, shall have the right to return until he or she turns 22 years of age.

(c) (1) ~~Probation referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code.~~

(A) On probation, with or without the supervision of a probation officer and consistent with an order of a juvenile court, who are considered to be wards of the court under Sections 601 and 602 of the Welfare and

Institutions Code and ordered placed pursuant to Sections 725, 729.2, and 791 of, and paragraph (2) of subdivision (a) of Section 727 of, the Welfare and Institutions Code.

(B) Under the supervision of a probation officer, with the consent of the minor and the minor's parent or guardian, pursuant to Section 654 of the Welfare and Institutions Code.

(C) Under the supervision of a probation officer pursuant to Section 726 and paragraph (3) of subdivision (a) of Section 727 of the Welfare and Institutions Code with the consent of the pupil's parent, guardian, or responsible adult appointed by the juvenile court to make educational decisions for the pupil. The enrollment of a minor covered by this paragraph in a county community school shall be consistent with paragraph (2) of subdivision (c) of Section 726 of the Welfare and Institutions Code, which provides that all educational and school placement decisions shall seek to ensure that the youth is in the least restrictive educational program, has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils, and are based on the best interests of the child.

(D) Unless specifically ordered by a juvenile court, nothing in this subdivision shall be construed to conflict with the existing rights of a parent, guardian, or responsible adult appointed by the juvenile court pursuant to Section 726 of the Welfare and Institutions Code to make educational placement decisions for the minor.

(E) With respect to a pupil's enrollment in a county community school pursuant to subparagraph (B) or (C), and consistent with paragraph (2) of subdivision (c) of Section 726 of the Welfare and Institutions Code and California Rule of Court 5.651, all of the following shall apply:

(i) The attorney for, or the person holding the educational rights of, a pupil who is under the jurisdiction of the delinquency court may use the procedures set forth in California Rule of Court 5.651 to address any change of placement that results in the enrollment of the pupil in a county community school that is not his or her school of origin.

(ii) The attorney or the person holding the educational rights appointed by the court for a pupil who is under the jurisdiction of the delinquency court may, during a regularly scheduled hearing, raise any concerns with respect to whether the enrollment of the pupil in a county community school is meeting the educational needs of the pupil.

(iii) Nothing in this subparagraph is intended to limit in any way the rights or responsibilities of any person as set forth in paragraph (2) of subdivision (c) of Section 726 of the Welfare and Institutions Code and California Rule of Court 5.651.

(2) On probation or parole and not in attendance ~~at~~ in any school, where enrollment is with the consent of the parent, guardian, or responsible adult, or the pupil, if he or she is 18 years of age or older. Nothing in this subdivision shall impact the provision of services or funding for youth up to 25 years of age pursuant to subdivision (b) of Section 1982, as that section read on September 25, 2013.

(3) Expelled for any of the reasons specified in subdivision (a) or (c) of Section 48915.

(4) Enrollment in a county community school pursuant to this subdivision shall be consistent with subdivision (b) of Section 48645.5.

(d) Pupils whose school districts of attendance, or, for pupils who do not have school districts of attendance, school districts of residence, have, at the request of the pupil's parent, guardian, or responsible adult, approved the pupil's enrollment in a county community school, subject to the following:

(1) A pupil shall not be enrolled in a county community school pursuant to this subdivision unless the school district determines that the placement will promote the educational interests of the pupil and the county community school has space available to enroll the pupil.

(2) A parent, guardian, or responsible adult of a pupil enrolled in a county community school pursuant to this subdivision may rescind the request for the placement, and the pupil shall be immediately reenrolled in the

school that the pupil attended at the time of the referral, or, with the consent of the parent, guardian, or responsible adult, another appropriate school.

(e) The procedures outlined in subdivisions (b) to (e), inclusive, of Section 51225.2 govern the transfer of credits, records, including special education records, and grades required pursuant to subdivision (a) of Section 48645.5 and Section 49068 when the pupil transfers to and from the county community school.

(f) For purposes of this section, "geographically accessible" means that the pupil can reasonably travel to and from the school and is able to pay for any transportation costs that are above and beyond the costs to attend his or her school of residence or prior school, whichever is farther away.

EC § 1981.2 – Repealed

For purposes of this chapter, the term "homeless children" means either of the following:

- ~~(a) A schoolaged child who lacks a fixed, regular, and adequate nighttime residence.~~
- ~~(b) A schoolaged child who has a primary nighttime residence that is any of the following:
 - ~~(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations.~~
 - ~~(2) An institution that provides a temporary residence for individuals intended to be institutionalized.~~
 - ~~(3) A temporary, makeshift arrangement in the accommodations of other persons.~~
 - ~~(4) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.~~~~

EC § 1981.5 – Added

(a) A pupil who is involuntarily enrolled in a county community school pursuant to subdivision (a) of, or subparagraph (A) of paragraph (1) or paragraph (3) of subdivision (c) of, Section 1981 shall have the right to reenroll in his or her former school or another comprehensive school immediately after being readmitted from the expulsion order pursuant to Section 48916 or court-ordered placement. Nothing in this section is intended to limit the school placement options that a school district may recommend for a pupil being readmitted.

(b) Consistent with the process and procedures set forth in Section 48916, only the governing board of the school district that issued the initial order or subsequent order to expel may extend the duration of an expelled pupil's placement in a county community school.

EC § 1883 – Amended

(a) Pupils enrolled in county community schools shall be assigned to classes or programs deemed most appropriate for reinforcing or reestablishing educational development.

(b) ~~Such~~ These classes or programs may include, but need not be limited to, basic educational skill development, on-the-job training, ~~tutorial assistance, independent study requirements,~~ school credit recovery assistance, tutorial assistance, and individual guidance activities.

(c) To the extent that independent study is determined to satisfy the individually planned educational program described in subdivision (d) for a pupil attending a county community school, it shall meet all the requirements of Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of Division 4 of Title 2, including the requirement that entry into that program is voluntary.

~~(e)~~ (d) An individually planned educational program based upon an educational assessment shall be prescribed for each pupil.

~~(d)~~ (e) The course of study of a county community school shall be adopted by the county board of education and shall enable each pupil to continue academic work leading to the completion of a regular high school program.

(f) Pursuant to Part 30 (commencing with Section 56000) of Division 4 of Title 2 of this code, Chapter 33 (commencing with Section 1400) of Title 20 of the United States Code, and accompanying state and federal regulatory provisions, county boards of education operating county community schools shall ensure that assessments are administered in all areas of suspected disability and appropriate services and programs, as specified in a pupil's individualized education program, are provided.

(g) County boards of education operating county community schools shall ensure that appropriate services and programs designed to address the language needs of pupils identified as English learners are provided in compliance with all applicable state and federal laws and regulatory provisions.

EC § 48918 – Amended

The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to, all of the following: . . .

(e) Within three schooldays after the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing ~~board~~ board of the school district. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil immediately shall be reinstated and permitted to return to ~~a~~ the classroom instructional ~~program, any other instructional program, a rehabilitation program, or any combination of these programs.~~ program from which the expulsion referral was made, unless the parent, guardian, or responsible adult of the pupil requests another school placement in writing. Placement in one or more of these programs shall be made by the superintendent of schools Before the placement decision is made by the parent, guardian, or responsible adult, the superintendent of schools or the superintendent's designee ~~after consultation~~ shall consult with school district personnel, including the pupil's teachers, and the ~~pupil's parent, guardian, or guardian.~~ responsible adult regarding any other school placement options for the pupil in addition to the option to return to his or her classroom instructional program from which the expulsion referral was made. If the hearing officer or administrative panel finds that the pupil committed any of the acts specified in subdivision (c) of Section 48915, but does not recommend expulsion, the pupil shall be immediately reinstated and may be referred to his or her prior school, or, another comprehensive school, or, pursuant to the procedures set forth in Section 48432.5, a continuation school of the school district. The decision not to recommend expulsion shall be final.

