

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY MAY 18, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1400

Introduced by Assembly Member Fong

February 27, 2009

An act to add Section 76038 to the Education Code, relating to community college districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1400, as amended, Fong. Community colleges: expulsion: hearing.

(1) Existing law establishes the California Community Colleges, 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. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

Existing law authorizes the governing board of a district to expel a student for good cause when the presence of the student causes a continuing danger to the physical safety of the student or others. Existing law requires that the expulsion be accompanied by a hearing.

This bill would authorize the governing board of a district to either deny enrollment, permit enrollment, or permit conditional enrollment

by any individual who has been expelled from a community college within the preceding 10 years, *or who is, at the time of the application, undergoing expulsion procedures*, for certain offenses, as provided, if the board determines that the person continues to pose a risk to the safety of others. This bill would ~~require~~ *authorize the board to hold a hearing before making the determination as to whether the person continues to pose a risk. The bill would authorize a governing board of a district to delegate its authority under these provisions to the superintendent or president of the district, or to his or her designee.*

The bill would expressly apply specified immunities to an exercise of discretion by a community college district, and its officers and employees, under these provisions.

The bill would also allow the community college district to request information from another community college district in determining whether the applicant continues to pose a danger to the physical safety of others. The bill would require any community college district receiving the request to respond to the request within 5 working days.

By requiring a community college district to respond to the request of another community college for information regarding an expelled student, this bill would create a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 76038 is added to the Education Code,
- 2 to read:
- 3 76038. (a) If the governing board of a community college
- 4 district receives an application for admission from an individual
- 5 who has been expelled from another district pursuant to this article
- 6 within the preceding 10 years, *or who is undergoing expulsion*
- 7 *procedures in another district*, for any of the offenses listed in
- 8 subdivision (b), the governing board may hold a hearing, *conducted*

1 *in accordance with this section and any applicable rules and*
2 *regulations adopted pursuant to Section 66300, to determine*
3 *whether that individual poses a continuing danger to the physical*
4 *safety of the students and employees of the district.—The*
5 *determination shall be made pursuant to a hearing conducted in*
6 *accordance with the requirements of Section 66017.*

7 (b) For purposes of this section, “offense” means one of the
8 following:

9 (1) Committed or attempted to commit murder.

10 (2) Caused, attempted to cause, or threatened to cause physical
11 injury to another person, including assault or battery as defined in
12 Section 240 or 242 of the Penal Code, except in self-defense.

13 (3) Committed or attempted to commit a sexual assault as
14 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
15 Code or committed sexual battery as defined in Section 243.4 of
16 the Penal Code.

17 (4) Committed or attempted to commit kidnapping, or seized,
18 confined, inveigled, enticed, decoyed, abducted, concealed,
19 kidnapped, or carried away another person by any means with the
20 intent to hold or detain that person for ransom or reward.

21 (5) Committed or attempted to commit robbery or extortion.

22 (6) Committed stalking as defined in Section 646.9 of the Penal
23 Code.

24 (7) Unlawfully possessed, sold, or otherwise furnished a firearm,
25 knife, explosive, or other dangerous object.

26 (c) A community college district may request information from
27 another community college district in determining whether the
28 applicant continues to pose a danger to the physical safety of others.
29 Any community college district receiving such a request shall
30 respond no later than five working days from the receipt of the
31 request.

32 (d) Any student who has been previously expelled from a
33 community college in the state for any of the actions listed in
34 subdivision (b) shall inform the district of his or her prior expulsion
35 upon seeking admission. Failure to do so shall be considered by
36 the district in determining whether to grant admission, and a written
37 record of the fact shall be maintained by the district with the
38 applicant’s file.

1 (e) The governing board of a community college district, upon
2 making a determination pursuant to subdivision (a), may take any
3 of the following actions:

- 4 (1) Deny enrollment.
- 5 (2) Permit enrollment.
- 6 (3) Permit conditional enrollment.

7 *(f) The governing board of a community college district may*
8 *delegate any authority under this section to the superintendent or*
9 *president of a community college district, or his or her designee,*
10 *pursuant to rules and regulations adopted pursuant to Section*
11 *66300. A student who is denied enrollment under this subdivision*
12 *may appeal the decision to deny enrollment to the governing board*
13 *of the community college district.*

14 *(g) This section shall not be construed to impose any duty on a*
15 *community college district to review applicants for admission or*
16 *review previously enrolled students, whether returning or*
17 *continuing, or to conduct a hearing in response to the receipt of*
18 *any information regarding a potential, former, or existing student.*

19 *(h) A community college district, a member of the governing*
20 *board of a community college district, an officer or employee of*
21 *a community college district, including a superintendent of a*
22 *community college district, a president of a community college*
23 *district, and the designee of a president or a superintendent, shall*
24 *not be liable for an injury resulting from an exercise of discretion*
25 *pursuant to this section, including, but not limited to, an exercise*
26 *of discretion not to conduct a hearing, in accordance with Sections*
27 *815.2 and 820.2 of the Government Code.*

28 SEC. 2. If the Commission on State Mandates determines that
29 this act contains costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.