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SENATE BILL

No. 744

Introduced by Senator Lara

February 22, 2013

An act to amend Sections 1981, 1983, 48660.1, 48662, and 48918 of, to add Sections 1981.5 and 48662.5 to, and to repeal Section 1981.2 of, the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 744, as amended, Lara. Pupils: involuntary transfer: county community schools and community day schools.

(1) Existing law authorizes a county board of education to establish and maintain one or more community schools into which the county board of education may enroll specified pupils, including, but not limited to, pupils who are expelled for specified reasons, referred as the result of the recommendation by a school attendance review board, probation referred, or homeless children.

This bill would revise the list of pupils who may be involuntarily enrolled in a county community school to limit the kind of probation referrals and remove homeless children. The bill, with regard to pupils referred as the result of a recommendation by the school attendance review board, would require that the school district and the county office of education determine that the county community school has space available to enroll the pupil, the pupil's educational needs will be met by the county community school, and that the parent, guardian, or responsible adult does not expressly object to the referral. The bill would require the school attendance review board to include a school option that is geographically accessible, as defined, to the pupil, if the county community school is not geographically accessible, as specified. The bill would also provide that the pupil has the right to return to his or her previous school, or other appropriate school, at the end of the semester following the semester when the acts leading to referral occurred. The bill would allow enrollment of certain other pupils in a county community school with the consent of the pupil's parent or guardian. The bill would authorize, with respect to certain probation referrals to a county community school, certain persons, including the attorney for a pupil who is under the jurisdiction of a delinquency court, to take specified actions related to the enrollment of a pupil in a county community school.

(2) Existing law requires a county community school to prescribe an individually planned educational program based on an educational assessment for each pupil. Existing law requires the course of study of a county community school to be adopted by the county board of education to enable each pupil to continue academic work leading to the completion of a regular high school program.

This bill would require county boards of education operating county community schools to ensure, among other things, that appropriate services and programs specified in a pupil's individualized education program are provided.

(3) Existing law authorizes the governing board of a school district to establish one or more community day schools for pupils in any of kindergarten and grades 1 to 12, inclusive. Existing law authorizes the governing board of a school district to assign a pupil to a community day school only if the pupil meets specified conditions, including, but not limited to, being expelled, being referred by a school attendance review board or other district-level referral process, and being probation referred pursuant to specified law.

This bill would revise the list of pupils who may be involuntarily transferred to a community day school to limit the kind of probation referrals. The bill would impose certain conditions on the involuntary transfer of a pupil referred by the school attendance review board or other district-level referral process and would require the school attendance review board or other district-level referral process to include a geographically accessible school option if the community day school is not geographically accessible. The bill would allow enrollment of certain other pupils in a community day school with the consent of the pupil's parent or guardian. The bill would authorize, with respect to certain probation referrals to a community day school, certain persons, including the attorney for a pupil who is under the jurisdiction of a delinquency court, to take specified actions related to the enrollment of a pupil in a community day school.

(4) Existing law states the intent of the Legislature that community day schools include specified program components, including, but not limited to, individualized instruction and assessment.

This bill would state the intent of the Legislature that, if an individualized assessment shows that the pupil requires additional educational services that are not offered at the community day school, the parent, guardian, or responsible adult of the pupil shall be informed, and that the probation officer relative to a pupil ordered placed in a community day school by court order shall also be informed. The bill would require school districts operating community day schools to ensure that appropriate services and programs, as provided, are provided to certain pupils, as specified. The bill would authorize a school district to require a pupil, with the consent of his or her parent or guardian, to enroll in a county-supported drug rehabilitation program pursuant to a specified provision.

(5) This bill would provide a pupil who has been involuntarily enrolled in a county community school or a community day school the right to reenroll in his or her former school or another comprehensive school immediately after being readmitted from an expulsion order or court-ordered placement. The bill would provide that 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 or a community day school.

(6) Existing law requires the governing board of each school district to establish rules and regulations governing procedures for the expulsion of pupils. Existing law requires the adopted rules and regulations to

require, if a hearing officer or administrative panel decided not to recommend expulsion, the expulsion proceedings to be terminated and the pupil to be immediately reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs.

This bill would require the adopted rules and regulations to instead require that the pupil be permitted to return only to the classroom instructional program from which the expulsion referral was made unless a parent, guardian, or responsible adult requests another school placement in writing. The bill would, before the placement decision is made by the parent, guardian, or responsible adult, require the superintendent of schools or the superintendent's designee to consult with school district personnel, including the pupil's teachers, and the parent, guardian, or 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. By requiring the governing board of a school district to establish or revise the rules and regulations governing procedures for the expulsion of pupils, the bill would impose a state-mandated local program.

(7) 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 1981 of the Education Code is amended
- 2 to read:
- 3 1981. The county board of education may enroll pupils in a
- 4 county community school who are any of the following:
- 5 (a) Expelled from a school district for any reason other than
- 6 those specified in subdivision (a) or (c) of Section 48915.
- 7 (b) (1) Referred to a county community school by a school
- 8 district as a result of the recommendation by a school attendance

1 review board. A pupil shall not be referred to a county community
2 school by a school district unless the school district and the county
3 office of education determine all of the following:

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

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

8 (C) The parent, guardian, or responsible adult of the pupil has
9 not expressly objected to the referral.

10 (2) If the county community school recommended pursuant to
11 paragraph (1) is not geographically accessible to the pupil, the
12 school attendance review board shall also include in its
13 recommendation a school option for the pupil that is geographically
14 accessible to the pupil and for which the school district and the
15 county office of education determine all of the following:

16 (A) The recommended school option has space available to
17 enroll the pupil.

18 (B) The recommended school option meets the educational
19 needs of the pupil.

20 (C) The parent, guardian, or responsible adult of the pupil has
21 not expressly objected to the recommended school option.

22 (3) The pupil has the right to return to his or her prior school
23 or another appropriate school within his or her school district at
24 the end of the semester following the semester when the acts
25 leading to referral occurred.

26 (c) (1) (A) On probation, with or without the supervision of
27 a probation officer and consistent with an order of a juvenile court,
28 who are considered to be wards of the court under Sections 601
29 and 602 of the Welfare and Institutions Code and ordered placed
30 pursuant to Sections 725, 729.2, and 791 of, and paragraph (2) of
31 subdivision (a) of Section 727 of, the Welfare and Institutions
32 Code.

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

36 (C) Under the supervision of a probation officer pursuant to
37 Section 726 and paragraph (3) of subdivision (a) of Section 727
38 of the Welfare and Institutions Code with the consent of the pupil's
39 parent, guardian, or responsible adult appointed by the juvenile
40 court to make educational decisions for the pupil. The enrollment

1 of a minor covered by this paragraph in a county community school
2 shall be consistent with paragraph (2) of subdivision (c) of Section
3 726 of the Welfare and Institutions Code, which provides that all
4 educational and school placement decisions shall seek to ensure
5 that the youth is in the least restrictive educational program, has
6 access to the academic resources, services, and extracurricular and
7 enrichment activities that are available to all pupils, and are based
8 on the best interests of the child.

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

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

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

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

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

36 (2) On probation or parole and not in attendance at any school,
37 where enrollment is with the consent of the parent, guardian, or
38 responsible adult, or the pupil, if he or she is 18 years of age or
39 older. Nothing in this subdivision shall impact the provision of

1 services or funding for youth up to 25 years of age pursuant to
2 subdivision (b) of Section 1982.

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

5 (4) Enrollment in a county community school pursuant to this
6 subdivision shall be consistent with subdivision (b) of Section
7 48645.5.

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

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

18 (2) A parent, guardian, or responsible adult of a pupil enrolled
19 in a county community school pursuant to this subdivision may
20 rescind the request to the placement, and the pupil shall be
21 immediately reenrolled in the school that the pupil attended at the
22 time of the referral, or, with the consent of the parent, guardian,
23 or responsible adult, another appropriate school.

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

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

34 SEC. 2. Section 1981.2 of the Education Code is repealed.

35 SEC. 3. Section 1981.5 is added to the Education Code, to
36 read:

37 1981.5. (a) A pupil who is involuntarily enrolled in a county
38 community school pursuant to subdivision (a) of, or subparagraph
39 (A) of paragraph (1) or paragraph (3) of subdivision (c) of, Section
40 1981 shall have the right to reenroll in his or her former school or

1 another comprehensive school immediately after being readmitted
2 from the expulsion order pursuant to Section 48916 or
3 court-ordered placement. Nothing in this section is intended to
4 limit the school placement options that a school district may
5 recommend for a pupil being readmitted.

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

11 SEC. 4. Section 1983 of the Education Code is amended to
12 read:

13 1983. (a) Pupils enrolled in county community schools shall
14 be assigned to classes or programs deemed most appropriate for
15 reinforcing or reestablishing educational development.

16 (b) These classes or programs may include, but need not be
17 limited to, basic educational skill development, on-the-job training,
18 school credit recovery assistance, tutorial assistance, and individual
19 guidance activities.

20 (c) To the extent that independent study is determined to satisfy
21 the individually planned educational program described in
22 subdivision (d) for a pupil attending a county community school,
23 it shall meet all the requirements of Section 51745 and following,
24 including the requirement that entry into that program is voluntary.

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

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

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

39 (g) County boards of education operating county community
40 schools shall ensure that appropriate services and programs

1 designed to address the language needs of pupils identified as
2 English learners are provided in compliance with all applicable
3 state and federal laws and regulatory provisions.

4 SEC. 5. Section 48660.1 of the Education Code is amended to
5 read:

6 48660.1. (a) It is the intent of the Legislature that school
7 districts operating community day schools, to the extent possible,
8 include the following program components:

9 (1) School district cooperation with the county office of
10 education, law enforcement, probation, and human services
11 agencies personnel who work with at-risk youth.

12 (2) Low pupil-teacher ratio.

13 (3) Individualized instruction and assessment. If an
14 individualized assessment shows that the pupil requires additional
15 educational services, supports, such as mental health counseling,
16 or classes, that are not offered at the community day school, the
17 parent, guardian, or responsible adult of the pupil shall be informed.
18 If the pupil has been placed pursuant to a court order as described
19 in paragraph (2) of subdivision (a) of Section 48662, the probation
20 officer shall also be informed.

21 (4) Maximum collaboration with school district support service
22 resources, including, but not limited to, school counselors and
23 psychologists, academic counselors, and pupil discipline personnel.

24 (5) A course of study that enables each pupil to continue
25 academic work leading to the completion of a regular high school
26 program.

27 (b) (1) For an expelled pupil, if the plan of rehabilitation
28 required pursuant to subdivisions (b) and (c) of Section 48916
29 requires access to a particular service or program for the pupil to
30 meet its conditions, the school district shall assist the pupil in
31 identifying those services or programs. The school district shall
32 not deny a pupil readmission to the school district for the sole
33 reason of not completing the service or program required by his
34 or her rehabilitation plan if the pupil was unable to complete that
35 service or program due to factors outside of his or her control,
36 including, but not limited to, being unable to find a service or
37 program that is free of cost, or that is geographically accessible.

38 (2) Pursuant to Section 48916.5, the governing board of a school
39 district may require a pupil to enroll in a county-supported drug
40 rehabilitation program, except that a pupil shall not be required to

1 enroll in a county-supported drug rehabilitation program without
2 the consent of his or her parent or guardian. If a parent or guardian
3 opts to enroll his or her pupil in a county-supported drug
4 rehabilitation program for a fee pursuant to Section 48916.5, the
5 school district shall not be liable for the cost of the program.

6 (c) Pursuant to Part 30 (commencing with Section 56000) of
7 Division 4 of Title 2 of this code, Chapter 33 (commencing with
8 Section 1400) of Title 20 of the United States Code, and
9 accompanying state and federal regulatory provisions, school
10 districts operating community day schools shall ensure that
11 assessments are administered in all areas of suspected disability
12 and appropriate services and programs specified in a pupil's
13 individualized education program are provided.

14 (d) School districts operating community day schools shall
15 ensure that appropriate services and programs designed to address
16 the language needs of pupils identified as English learners are
17 provided in compliance with all applicable state and federal laws
18 and regulatory provisions.

19 SEC. 6. Section 48662 of the Education Code is amended to
20 read:

21 48662. (a) A pupil may be involuntarily transferred to a
22 community day school by a school district only if he or she meets
23 one or more of the following conditions:

24 (1) The pupil is expelled for any reason.

25 (2) The pupil is on probation with or without the supervision
26 of a probation officer and consistent with an order of a juvenile
27 court, and is considered to be a ward of the court under Sections
28 601 and 602 of the Welfare and Institutions Code and is ordered
29 placed pursuant to Sections 725, 729.2, and 791 of, and paragraph
30 (2) of subdivision (a) of Section 727 of, the Welfare and Institutions
31 Code.

32 (3) (A) The pupil is referred by the school attendance review
33 board, or other district-level referral process, with the approval of
34 and a determination by the school district that the proposed school
35 will meet the educational needs of the pupil, including any needs
36 related to the referral to the school attendance review board in the
37 first instance. If the community day school is not geographically
38 accessible to the pupil, the school attendance review board or other
39 district-level referral process shall include a school option for the
40 pupil that is geographically accessible to the pupil. For purposes

1 of this paragraph, “geographically accessible” means that the pupil
2 can reasonably travel to and from the school and is able to pay for
3 any transportation costs that are above and beyond the costs to
4 attend his or her school of residence or prior school, whichever is
5 farther away.

6 (B) If the parent, guardian, or responsible adult has concerns at
7 any time about the appropriateness of the proposed placement, he
8 or she may raise those concerns with the school attendance review
9 board or the school district, and those concerns shall be taken into
10 consideration with regard to whether the placement shall continue.

11 (C) The term for an involuntary transfer under this paragraph
12 shall be no longer than the end of the semester following the
13 semester during which the acts leading to the referral occurred, at
14 which time the pupil shall have the right to reenroll in his or her
15 prior school or another comprehensive school of the school district.
16 This section is not intended to limit the school placement options
17 that a school district may recommend. This section is not intended
18 to limit a pupil or the parent or guardian of a pupil from making
19 a request that the pupil continue his or her enrollment at the
20 community day school.

21 (b) First priority for assignment to a community day school
22 shall be given to a pupil expelled pursuant to subdivision (d) of
23 Section 48915, second priority shall be given to pupils expelled
24 for other reasons, and third priority for placement shall be given
25 to all other pupils pursuant to this section, unless there is an
26 agreement that the county superintendent of schools shall serve
27 these pupils.

28 (c) A pupil may be voluntarily transferred to a community day
29 school only if he or she meets one of the following conditions:

30 (1) Under the supervision of a probation officer, with the consent
31 of the minor and the minor’s parent or guardian, pursuant to Section
32 654 of the Welfare and Institutions Code.

33 (2) Under the supervision of a probation officer pursuant to
34 Section 726 of, and paragraph (3) of subdivision (a) of Section
35 727 of, the Welfare and Institutions Code with the consent of the
36 pupil’s parent, guardian, or responsible adult appointed by the
37 juvenile court to make educational decisions for the pupil. The
38 enrollment of a minor covered by this paragraph in a community
39 day school shall be consistent with paragraph (2) of subdivision

40 (c) of Section 726 of the Welfare and Institutions Code and

1 subdivision (h) of Section 48853, which provide that all educational
2 and school placement decisions shall seek to ensure that the minor
3 is in the least restrictive educational program, has access to the
4 academic resources, services, and extracurricular and enrichment
5 activities that are available to all pupils, and that the decisions are
6 based on the best interests of the child.

7 (3) The parent or guardian of the pupil has approved or requested
8 the pupil's placement in a community day school.

9 (4) A pupil who is recommended to attend a community day
10 school by a school district shall not be enrolled in a community
11 day school pursuant to paragraph (3) unless the school district
12 determines that the placement will promote the educational interests
13 of the pupil.

14 (5) The parent, guardian, or responsible adult of a pupil enrolled
15 in a community day school pursuant to paragraph (3) may rescind
16 the request for placement at the beginning of the semester or as
17 soon thereafter as possible, and the pupil shall be immediately
18 reenrolled in the school the pupil attended at the time of the
19 referral, or, with the consent of the parent, guardian, or responsible
20 adult, in another appropriate school.

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

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

32 (f) Enrollment in a community day school pursuant to this
33 section shall be consistent with subdivision (b) of Section 48645.5.

34 (g) With respect to a voluntary transfer under paragraph (1) or
35 (2) of subdivision (c), and consistent with paragraph (2) of
36 subdivision (c) of Section 726 of the Welfare and Institutions Code
37 and California Rule of Court 5.651, all of the following shall apply:

38 (1) The attorney for, or the person holding the educational rights
39 of, a pupil who is under the jurisdiction of the delinquency court
40 may use the procedures set forth in California Rule of Court 5.651

1 to address any change of placement that results in the enrollment
2 of the pupil in a community day school that is not his or her school
3 of origin.

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

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

14 SEC. 7. Section 48662.5 is added to the Education Code, to
15 read:

16 48662.5. (a) A pupil who has been involuntarily enrolled in a
17 community day school shall have the right to reenroll in his or her
18 former school or another comprehensive school immediately after
19 being readmitted pursuant to Section 48916 from an expulsion
20 order or court-ordered placement. Nothing in this section is
21 intended to limit the school placement options that a school district
22 may recommend for a pupil being readmitted.

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

28 (c) Any school created for the purpose of enrolling pupils that
29 may be assigned to a community day school pursuant to Section
30 48662 shall follow the same procedures for the involuntary transfer
31 of pupils to a community day school set forth in this article.

32 SEC. 8. Section 48918 of the Education Code is amended to
33 read:

34 48918. The governing board of each school district shall
35 establish rules and regulations governing procedures for the
36 expulsion of pupils. These procedures shall include, but are not
37 necessarily limited to, all of the following:

38 (a) (1) The pupil shall be entitled to a hearing to determine
39 whether the pupil should be expelled. An expulsion hearing shall
40 be held within 30 schooldays after the date the principal or the

1 superintendent of schools determines that the pupil has committed
2 any of the acts enumerated in Section 48900, unless the pupil
3 requests, in writing, that the hearing be postponed. The adopted
4 rules and regulations shall specify that the pupil is entitled to at
5 least one postponement of an expulsion hearing, for a period of
6 not more than 30 calendar days. Any additional postponement may
7 be granted at the discretion of the governing board of the school
8 district.

9 (2) Within 10 schooldays after the conclusion of the hearing,
10 the governing board of the school district shall decide whether to
11 expel the pupil, unless the pupil requests in writing that the decision
12 be postponed. If the hearing is held by a hearing officer or an
13 administrative panel, or if the governing board of the school district
14 does not meet on a weekly basis, the governing board of the school
15 district shall decide whether to expel the pupil within 40 schooldays
16 after the date of the pupil's removal from his or her school of
17 attendance for the incident for which the recommendation for
18 expulsion is made by the principal or the superintendent, unless
19 the pupil requests in writing that the decision be postponed.

20 (3) If compliance by the governing board of the school district
21 with the time requirements for the conducting of an expulsion
22 hearing under this subdivision is impracticable during the regular
23 school year, the superintendent of schools or the superintendent's
24 designee may, for good cause, extend the time period for the
25 holding of the expulsion hearing for an additional five schooldays.
26 If compliance by the governing board of the school district with
27 the time requirements for the conducting of an expulsion hearing
28 under this subdivision is impractical due to a summer recess of
29 governing board meetings of more than two weeks, the days during
30 the recess period shall not be counted as schooldays in meeting
31 the time requirements. The days not counted as schooldays in
32 meeting the time requirements for an expulsion hearing because
33 of a summer recess of governing board meetings shall not exceed
34 20 schooldays, as defined in subdivision (c) of Section 48925, and
35 unless the pupil requests in writing that the expulsion hearing be
36 postponed, the hearing shall be held not later than 20 calendar days
37 before the first day of school for the school year. Reasons for the
38 extension of the time for the hearing shall be included as a part of
39 the record at the time the expulsion hearing is conducted. Upon
40 the commencement of the hearing, all matters shall be pursued

1 and conducted with reasonable diligence and shall be concluded
2 without any unnecessary delay.

3 (b) Written notice of the hearing shall be forwarded to the pupil
4 at least 10 calendar days before the date of the hearing. The notice
5 shall include all of the following:

6 (1) The date and place of the hearing.

7 (2) A statement of the specific facts and charges upon which
8 the proposed expulsion is based.

9 (3) A copy of the disciplinary rules of the school district that
10 relate to the alleged violation.

11 (4) A notice of the parent, guardian, or pupil's obligation
12 pursuant to subdivision (b) of Section 48915.1.

13 (5) Notice of the opportunity for the pupil or the pupil's parent
14 or guardian to appear in person or to be represented by legal
15 counsel or by a nonattorney adviser, to inspect and obtain copies
16 of all documents to be used at the hearing, to confront and question
17 all witnesses who testify at the hearing, to question all other
18 evidence presented, and to present oral and documentary evidence
19 on the pupil's behalf, including witnesses. In a hearing in which
20 a pupil is alleged to have committed or attempted to commit a
21 sexual assault as specified in subdivision (n) of Section 48900 or
22 to have committed a sexual battery as defined in subdivision (n)
23 of Section 48900, a complaining witness shall be given five days'
24 notice before being called to testify, and shall be entitled to have
25 up to two adult support persons, including, but not limited to, a
26 parent, guardian, or legal counsel, present during his or her
27 testimony. Before a complaining witness testifies, support persons
28 shall be admonished that the hearing is confidential. This
29 subdivision shall not preclude the person presiding over an
30 expulsion hearing from removing a support person whom the
31 presiding person finds is disrupting the hearing. If one or both of
32 the support persons is also a witness, the provisions of Section
33 868.5 of the Penal Code shall be followed for the hearing. This
34 section does not require a pupil or the pupil's parent or guardian
35 to be represented by legal counsel or by a nonattorney adviser at
36 the hearing.

37 (A) For purposes of this section, "legal counsel" means an
38 attorney or lawyer who is admitted to the practice of law in
39 California and is an active member of the State Bar of California.

1 (B) For purposes of this section, “nonattorney-~~adviser~~” *adviser*”
2 means an individual who is not an attorney or lawyer, but who is
3 familiar with the facts of the case, and has been selected by the
4 pupil or pupil’s parent or guardian to provide assistance at the
5 hearing.

6 (c) (1) Notwithstanding Section 35145, the governing board of
7 the school district shall conduct a hearing to consider the expulsion
8 of a pupil in a session closed to the public, unless the pupil
9 requests, in writing, at least five days before the date of the hearing,
10 that the hearing be conducted at a public meeting. Regardless of
11 whether the expulsion hearing is conducted in a closed or public
12 session, the governing board of the school district may meet in
13 closed session for the purpose of deliberating and determining
14 whether the pupil should be expelled.

15 (2) If the governing board of the school district or the hearing
16 officer or administrative panel appointed under subdivision (d) to
17 conduct the hearing admits any other person to a closed deliberation
18 session, the parent or guardian of the pupil, the pupil, and the
19 counsel of the pupil also shall be allowed to attend the closed
20 deliberations.

21 (3) If the hearing is to be conducted at a public meeting, and
22 there is a charge of committing or attempting to commit a sexual
23 assault as defined in subdivision (n) of Section 48900 or
24 committing a sexual battery as defined in subdivision (n) of Section
25 48900, a complaining witness shall have the right to have his or
26 her testimony heard in a session closed to the public when
27 testifying at a public meeting would threaten serious psychological
28 harm to the complaining witness and there are no alternative
29 procedures to avoid the threatened harm, including, but not limited
30 to, videotaped deposition or contemporaneous examination in
31 another place communicated to the hearing room by means of
32 closed-circuit television.

33 (d) Instead of conducting an expulsion hearing itself, the
34 governing board of the school district may contract with the county
35 hearing officer, or with the Office of Administrative Hearings
36 pursuant to Chapter 14 (commencing with Section 27720) of Part
37 3 of Division 2 of Title 3 of the Government Code and Section
38 35207 of this code, for a hearing officer to conduct the hearing.
39 The governing board of the school district may also appoint an
40 impartial administrative panel of three or more certificated persons,

1 none of whom is a member of the governing board of the school
2 district or employed on the staff of the school in which the pupil
3 is enrolled. The hearing shall be conducted in accordance with all
4 of the procedures established under this section.

5 (e) Within three schooldays after the hearing, the hearing officer
6 or administrative panel shall determine whether to recommend the
7 expulsion of the pupil to the governing board of the school district.
8 If the hearing officer or administrative panel decides not to
9 recommend expulsion, the expulsion proceedings shall be
10 terminated and the pupil immediately shall be reinstated and
11 permitted to return to the classroom instructional program from
12 which the expulsion referral was made, unless the parent, guardian,
13 or responsible adult of the pupil requests another school placement
14 in writing. Before the placement decision is made by the parent,
15 guardian, or responsible adult, the superintendent of schools or
16 the superintendent's designee shall consult with school district
17 personnel, including the pupil's teachers, and the parent, guardian,
18 or responsible adult regarding any other school placement options
19 for the pupil in addition to the option to return to his or her
20 classroom instructional program from which the expulsion referral
21 was made. If the hearing officer or administrative panel finds that
22 the pupil committed any of the acts specified in subdivision (c) of
23 Section 48915, but does not recommend expulsion, the pupil shall
24 be immediately reinstated but may be referred to his or her prior
25 school, or, pursuant to the procedures set forth in Section 48432.5,
26 a continuation school of the school district. The decision not to
27 recommend expulsion shall be final.

28 (f) (1) If the hearing officer or administrative panel recommends
29 expulsion, findings of fact in support of the recommendation shall
30 be prepared and submitted to the governing board of the school
31 district. All findings of fact and recommendations shall be based
32 solely on the evidence adduced at the hearing. If the governing
33 board of the school district accepts the recommendation calling
34 for expulsion, acceptance shall be based either upon a review of
35 the findings of fact and recommendations submitted by the hearing
36 officer or panel or upon the results of any supplementary hearing
37 conducted pursuant to this section that the governing board of the
38 school district may order.

39 (2) The decision of the governing board of the school district
40 to expel a pupil shall be based upon substantial evidence relevant

1 to the charges adduced at the expulsion hearing or hearings. Except
2 as provided in this section, *no* evidence to expel shall ~~not~~ be based
3 solely upon hearsay evidence. The governing board of the school
4 district or the hearing officer or administrative panel may, upon a
5 finding that good cause exists, determine that the disclosure of
6 either the identity of a witness or the testimony of that witness at
7 the hearing, or both, would subject the witness to an unreasonable
8 risk of psychological or physical harm. Upon this determination,
9 the testimony of the witness may be presented at the hearing in
10 the form of sworn declarations that shall be examined only by the
11 governing board of the school district or the hearing officer or
12 administrative panel. Copies of these sworn declarations, edited
13 to delete the name and identity of the witness, shall be made
14 available to the pupil.

15 (g) A record of the hearing shall be made. The record may be
16 maintained by any means, including electronic recording, so long
17 as a reasonably accurate and complete written transcription of the
18 proceedings can be made.

19 (h) (1) Technical rules of evidence shall not apply to the
20 hearing, but relevant evidence may be admitted and given probative
21 effect only if it is the kind of evidence upon which reasonable
22 persons are accustomed to rely in the conduct of serious affairs.
23 A decision of the governing board of the school district to expel
24 shall be supported by substantial evidence showing that the pupil
25 committed any of the acts enumerated in Section 48900.

26 (2) In hearings that include an allegation of committing or
27 attempting to commit a sexual assault as defined in subdivision
28 (n) of Section 48900 or committing a sexual battery as defined in
29 subdivision (n) of Section 48900, evidence of specific instances,
30 of a complaining witness' prior sexual conduct is to be presumed
31 inadmissible and shall not be heard absent a determination by the
32 person conducting the hearing that extraordinary circumstances
33 exist requiring the evidence be heard. Before the person conducting
34 the hearing makes the determination on whether extraordinary
35 circumstances exist requiring that specific instances of a
36 complaining witness' prior sexual conduct be heard, the
37 complaining witness shall be provided notice and an opportunity
38 to present opposition to the introduction of the evidence. In the
39 hearing on the admissibility of the evidence, the complaining
40 witness shall be entitled to be represented by a parent, guardian,

1 legal counsel, or other support person. Reputation or opinion
2 evidence regarding the sexual behavior of the complaining witness
3 is not admissible for any purpose.

4 (i) (1) Before the hearing has commenced, the governing board
5 of the school district may issue subpoenas at the request of either
6 the superintendent of schools or the superintendent's designee or
7 the pupil, for the personal appearance of percipient witnesses at
8 the hearing. After the hearing has commenced, the governing board
9 of the school district or the hearing officer or administrative panel
10 may, upon request of either the county superintendent of schools
11 or the superintendent's designee or the pupil, issue subpoenas. All
12 subpoenas shall be issued in accordance with Sections 1985,
13 1985.1, and 1985.2 of the Code of Civil Procedure. Enforcement
14 of subpoenas shall be done in accordance with Section 11455.20
15 of the Government Code.

16 (2) Any objection raised by the superintendent of schools or the
17 superintendent's designee or the pupil to the issuance of subpoenas
18 may be considered by the governing board of the school district
19 in closed session, or in open session, if so requested by the pupil
20 before the meeting. Any decision by the governing board of the
21 school district in response to an objection to the issuance of
22 subpoenas shall be final and binding.

23 (3) If the governing board of the school district, hearing officer,
24 or administrative panel determines, in accordance with subdivision
25 (f), that a percipient witness would be subject to an unreasonable
26 risk of harm by testifying at the hearing, a subpoena shall not be
27 issued to compel the personal attendance of that witness at the
28 hearing. However, that witness may be compelled to testify by
29 means of a sworn declaration as provided for in subdivision (f).

30 (4) Service of process shall be extended to all parts of the state
31 and shall be served in accordance with Section 1987 of the Code
32 of Civil Procedure. All witnesses appearing pursuant to subpoena,
33 other than the parties or officers or employees of the state or any
34 political subdivision of the state, shall receive fees, and all
35 witnesses appearing pursuant to subpoena, except the parties, shall
36 receive mileage in the same amount and under the same
37 circumstances as prescribed for witnesses in civil actions in a
38 superior court. Fees and mileage shall be paid by the party at whose
39 request the witness is subpoenaed.

1 (j) Whether an expulsion hearing is conducted by the governing
 2 board of the school district or before a hearing officer or
 3 administrative panel, final action to expel a pupil shall be taken
 4 only by the governing board of the school district in a public
 5 session. Written notice of any decision to expel or to suspend the
 6 enforcement of an expulsion order during a period of probation
 7 shall be sent by the superintendent of schools or his or her designee
 8 to the pupil or the pupil’s parent or guardian and shall be
 9 accompanied by all of the following:

10 (1) Notice of the right to appeal the expulsion to the county
 11 board of education.

12 (2) Notice of the education alternative placement to be provided
 13 to the pupil during the time of expulsion.

14 (3) Notice of the obligation of the parent, guardian, or pupil
 15 under subdivision (b) of Section 48915.1, upon the pupil’s
 16 enrollment in a new school district, to inform that school district
 17 of the pupil’s expulsion.

18 (k) (1) The governing board of the school district shall maintain
 19 a record of each expulsion, including the cause for the expulsion.
 20 Records of expulsions shall be a nonprivileged, disclosable public
 21 record.

22 (2) The expulsion order and the causes for the expulsion shall
 23 be recorded in the pupil’s mandatory interim record and shall be
 24 forwarded to any school in which the pupil subsequently enrolls
 25 upon receipt of a request from the admitting school for the pupil’s
 26 school records.

27 SEC. 9. If the Commission on State Mandates determines that
 28 this act contains costs mandated by the state, reimbursement to
 29 local agencies and school districts for those costs shall be made
 30 pursuant to Part 7 (commencing with Section 17500) of Division
 31 4 of Title 2 of the Government Code.