

AMENDED IN SENATE APRIL 21, 2014

SENATE BILL

No. 1111

Introduced by Senator Lara

February 19, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, 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, that the pupil's educational needs will be met by the county community school, and that the parent, guardian, or responsible adult of the pupil 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, guardian, or responsible adult. 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)~~

~~(3) 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)~~

~~(4) 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~~ *decides* 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 of the pupil 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)

(5) 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
- 9 review board. A pupil shall not be referred to a county community
- 10 school by a school district unless the school district and the county
- 11 office of education determine all of the following:
- 12 (A) The county community school has space available to enroll
- 13 the pupil.
- 14 (B) The county community school meets the educational needs
- 15 of the pupil.
- 16 (C) The parent, guardian, or responsible adult of the pupil has
- 17 not expressly objected to the referral.

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

7 (A) The recommended school option has space available to
8 enroll the pupil.

9 (B) The recommended school option meets the educational
10 needs of the pupil.

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

13 (3) The pupil has the right to return to his or her prior school or
14 another appropriate school within his or her school district at the
15 end of the semester following the semester when the acts leading
16 to referral occurred.

17 (c) (1) (A) On probation, with or without the supervision of a
18 probation officer and consistent with an order of a juvenile court,
19 who are considered to be wards of the court under Sections 601
20 and 602 of the Welfare and Institutions Code and ordered placed
21 pursuant to Sections 725, 729.2, and 791 of, and paragraph (2) of
22 subdivision (a) of Section 727 of, the Welfare and Institutions
23 Code.

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

27 (C) Under the supervision of a probation officer pursuant to
28 Section 726 and paragraph (3) of subdivision (a) of Section 727
29 of the Welfare and Institutions Code with the consent of the pupil's
30 parent, guardian, or responsible adult appointed by the juvenile
31 court to make educational decisions for the pupil. The enrollment
32 of a minor covered by this paragraph in a county community school
33 shall be consistent with paragraph (2) of subdivision (c) of Section
34 726 of the Welfare and Institutions Code, which provides that all
35 educational and school placement decisions shall seek to ensure
36 that the youth is in the least restrictive educational program, has
37 access to the academic resources, services, and extracurricular and
38 enrichment activities that are available to all pupils, and are based
39 on the best interests of the child.

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

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

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

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

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

28 (2) On probation or parole and not in attendance at any school,
29 where enrollment is with the consent of the parent, guardian, or
30 responsible adult, or the pupil, if he or she is 18 years of age or
31 older. Nothing in this subdivision shall impact the provision of
32 services or funding for youth up to 25 years of age pursuant to
33 subdivision (b) of Section 1982, as that section read on September
34 25, 2013.

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

37 (4) Enrollment in a county community school pursuant to this
38 subdivision shall be consistent with subdivision (b) of Section
39 48645.5.

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

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

11 (2) A parent, guardian, or responsible adult of a pupil enrolled
12 in a county community school pursuant to this subdivision may
13 rescind the request for the placement, and the pupil shall be
14 immediately reenrolled in the school that the pupil attended at the
15 time of the referral, or, with the consent of the parent, guardian,
16 or responsible adult, another appropriate school.

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

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

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

28 SEC. 3. Section 1981.5 is added to the Education Code, to
29 read:

30 1981.5. (a) A pupil who is involuntarily enrolled in a county
31 community school pursuant to subdivision (a) of, or subparagraph
32 (A) of paragraph (1) or paragraph (3) of subdivision (c) of, Section
33 1981 shall have the right to reenroll in his or her former school or
34 another comprehensive school immediately after being readmitted
35 from the expulsion order pursuant to Section 48916 or
36 court-ordered placement. Nothing in this section is intended to
37 limit the school placement options that a school district may
38 recommend for a pupil being readmitted.

39 (b) Consistent with the process and procedures set forth in
40 Section 48916, only the governing board of the school district that

1 issued the initial order or subsequent order to expel may extend
2 the duration of an expelled pupil's placement in a county
3 community school.

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

6 1983. (a) Pupils enrolled in county community schools shall
7 be assigned to classes or programs deemed most appropriate for
8 reinforcing or reestablishing educational development.

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

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

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

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

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

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

38 ~~SEC. 5. Section 48660.1 of the Education Code is amended to~~
39 ~~read:~~

1 48660.1. ~~(a) It is the intent of the Legislature that school~~
2 ~~districts operating community day schools, to the extent possible,~~
3 ~~include the following program components:~~

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

7 ~~(2) Low pupil-teacher ratio.~~

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

16 ~~(4) Maximum collaboration with school district support service~~
17 ~~resources, including, but not limited to, school counselors and~~
18 ~~psychologists, academic counselors, and pupil discipline personnel.~~

19 ~~(5) A course of study that enables each pupil to continue~~
20 ~~academic work leading to the completion of a regular high school~~
21 ~~program.~~

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

33 ~~(2) Pursuant to Section 48916.5, the governing board of a school~~
34 ~~district may require a pupil to enroll in a county-supported drug~~
35 ~~rehabilitation program, except that a pupil shall not be required to~~
36 ~~enroll in a county-supported drug rehabilitation program without~~
37 ~~the consent of his or her parent or guardian. If a parent or guardian~~
38 ~~opts to enroll his or her pupil in a county-supported drug~~
39 ~~rehabilitation program for a fee pursuant to Section 48916.5, the~~
40 ~~school district shall not be liable for the cost of the program.~~

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

9 ~~(d) School districts operating community day schools shall~~
10 ~~ensure that appropriate services and programs designed to address~~
11 ~~the language needs of pupils identified as English learners are~~
12 ~~provided in compliance with all applicable state and federal laws~~
13 ~~and regulatory provisions.~~

14 ~~SEC. 6. Section 48662 of the Education Code is amended to~~
15 ~~read:~~

16 ~~48662. (a) A pupil may be involuntarily transferred to a~~
17 ~~community day school by a school district only if he or she meets~~
18 ~~one or more of the following conditions:~~

19 ~~(1) The pupil is expelled for any reason.~~

20 ~~(2) The pupil is on probation with or without the supervision~~
21 ~~of a probation officer and consistent with an order of a juvenile~~
22 ~~court, and is considered to be a ward of the court under Sections~~
23 ~~601 and 602 of the Welfare and Institutions Code and is ordered~~
24 ~~placed pursuant to Sections 725, 729.2, and 791 of, and paragraph~~
25 ~~(2) of subdivision (a) of Section 727 of, the Welfare and Institutions~~
26 ~~Code.~~

27 ~~(3) (A) The pupil is referred by the school attendance review~~
28 ~~board, or other district-level referral process, with the approval of~~
29 ~~and a determination by the school district that the proposed school~~
30 ~~will meet the educational needs of the pupil, including any needs~~
31 ~~related to the referral to the school attendance review board in the~~
32 ~~first instance. If the community day school is not geographically~~
33 ~~accessible to the pupil, the school attendance review board, or~~
34 ~~other district-level referral process, shall include a school option~~
35 ~~for the pupil that is geographically accessible to the pupil. For~~
36 ~~purposes of this paragraph, "geographically accessible" means~~
37 ~~that the pupil can reasonably travel to and from the school and is~~
38 ~~able to pay for any transportation costs that are above and beyond~~
39 ~~the costs to attend his or her school of residence or prior school,~~
40 ~~whichever is farther away.~~

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

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

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

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

25 (1) The pupil is under the supervision of a probation officer,
26 with the consent of the minor and the minor's parent or guardian,
27 pursuant to Section 654 of the Welfare and Institutions Code.

28 (2) The pupil is under the supervision of a probation officer
29 pursuant to Section 726 of, and paragraph (3) of subdivision (a)
30 of Section 727 of, the Welfare and Institutions Code with the
31 consent of the pupil's parent, guardian, or responsible adult
32 appointed by the juvenile court to make educational decisions for
33 the pupil. The enrollment of a minor covered by this paragraph in
34 a community day school shall be consistent with paragraph (2) of
35 subdivision (e) of Section 726 of the Welfare and Institutions Code
36 and subdivision (h) of Section 48853, which provide that all
37 educational and school placement decisions shall seek to ensure
38 that the minor is in the least restrictive educational program, has
39 access to the academic resources, services, and extracurricular and

1 enrichment activities that are available to all pupils, and that the
2 decisions are based on the best interests of the child.

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

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

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

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

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

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

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

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

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

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

11 ~~SEC. 7. Section 48662.5 is added to the Education Code, to~~
12 ~~read:~~

13 ~~48662.5. (a) A pupil who has been involuntarily enrolled in a~~
14 ~~community day school shall have the right to reenroll in his or her~~
15 ~~former school or another comprehensive school immediately after~~
16 ~~being readmitted pursuant to Section 48916 from an expulsion~~
17 ~~order or court-ordered placement. Nothing in this section is~~
18 ~~intended to limit the school placement options that a school district~~
19 ~~may recommend for a pupil being readmitted.~~

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

25 ~~(c) Any school created for the purpose of enrolling pupils that~~
26 ~~may be assigned to a community day school pursuant to Section~~
27 ~~48662 shall follow the same procedures for the involuntary transfer~~
28 ~~of pupils to a community day school set forth in this article.~~

29 ~~SEC. 8.~~

30 ~~SEC. 5. Section 48918 of the Education Code is amended to~~
31 ~~read:~~

32 ~~48918. The governing board of each school district shall~~
33 ~~establish rules and regulations governing procedures for the~~
34 ~~expulsion of pupils. These procedures shall include, but are not~~
35 ~~necessarily limited to, all of the following:~~

36 ~~(a) (1) The pupil shall be entitled to a hearing to determine~~
37 ~~whether the pupil should be expelled. An expulsion hearing shall~~
38 ~~be held within 30 schooldays after the date the principal or the~~
39 ~~superintendent of schools determines that the pupil has committed~~
40 ~~any of the acts enumerated in Section 48900, unless the pupil~~

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

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

18 (3) If compliance by the governing board of the school district
19 with the time requirements for the conducting of an expulsion
20 hearing under this subdivision is impracticable during the regular
21 school year, the superintendent of schools or the superintendent's
22 designee may, for good cause, extend the time period for the
23 holding of the expulsion hearing for an additional five schooldays.
24 If compliance by the governing board of the school district with
25 the time requirements for the conducting of an expulsion hearing
26 under this subdivision is impractical due to a summer recess of
27 governing board meetings of more than two weeks, the days during
28 the recess period shall not be counted as schooldays in meeting
29 the time requirements. The days not counted as schooldays in
30 meeting the time requirements for an expulsion hearing because
31 of a summer recess of governing board meetings shall not exceed
32 20 schooldays, as defined in subdivision (c) of Section 48925, and
33 unless the pupil requests in writing that the expulsion hearing be
34 postponed, the hearing shall be held not later than 20 calendar days
35 before the first day of school for the school year. Reasons for the
36 extension of the time for the hearing shall be included as a part of
37 the record at the time the expulsion hearing is conducted. Upon
38 the commencement of the hearing, all matters shall be pursued
39 and conducted with reasonable diligence and shall be concluded
40 without any unnecessary delay.

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

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

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

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

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

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

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

38 (B) For purposes of this section, "nonattorney adviser" means
39 an individual who is not an attorney or lawyer, but who is familiar

1 with the facts of the case, and has been selected by the pupil or
2 pupil's parent or guardian to provide assistance at the hearing.

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

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

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

30 (d) Instead of conducting an expulsion hearing itself, the
31 governing board of the school district may contract with the county
32 hearing officer, or with the Office of Administrative Hearings
33 pursuant to Chapter 14 (commencing with Section 27720) of Part
34 3 of Division 2 of Title 3 of the Government Code and Section
35 35207 of this code, for a hearing officer to conduct the hearing.
36 The governing board of the school district may also appoint an
37 impartial administrative panel of three or more certificated persons,
38 none of whom is a member of the governing board of the school
39 district or employed on the staff of the school in which the pupil

1 is enrolled. The hearing shall be conducted in accordance with all
2 of the procedures established under this section.

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

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

37 (2) The decision of the governing board of the school district
38 to expel a pupil shall be based upon substantial evidence relevant
39 to the charges adduced at the expulsion hearing or hearings. Except
40 as provided in this section, no evidence to expel shall be based

1 solely upon hearsay evidence. The governing board of the school
2 district or the hearing officer or administrative panel may, upon a
3 finding that good cause exists, determine that the disclosure of
4 either the identity of a witness or the testimony of that witness at
5 the hearing, or both, would subject the witness to an unreasonable
6 risk of psychological or physical harm. Upon this determination,
7 the testimony of the witness may be presented at the hearing in
8 the form of sworn declarations that shall be examined only by the
9 governing board of the school district or the hearing officer or
10 administrative panel. Copies of these sworn declarations, edited
11 to delete the name and identity of the witness, shall be made
12 available to the pupil.

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

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

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

1 evidence regarding the sexual behavior of the complaining witness
2 is not admissible for any purpose.

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

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

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

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

39 (j) Whether an expulsion hearing is conducted by the governing
40 board of the school district or before a hearing officer or

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

8 (1) Notice of the right to appeal the expulsion to the county
9 board of education.

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

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

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

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

25 ~~SEC. 9.~~

26 *SEC. 6.* If the Commission on State Mandates determines that
27 this act contains costs mandated by the state, reimbursement to
28 local agencies and school districts for those costs shall be made
29 pursuant to Part 7 (commencing with Section 17500) of Division
30 4 of Title 2 of the Government Code.