

New Law Effectively Ends “Willful Defiance” School Suspensions for All Grades

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Written by:

Kyle A. Raney
Partner
Sacramento Office
kraney@lozanosmith.com

Precious D. Edem
Associate
Los Angeles Office
pedem@lozanosmith.com

On October 8, 2023, Governor Gavin Newsom signed into law Senate Bill (SB) 274, also known as the “Keep Kids in School” bill. Beginning July 1, 2024, SB 274 amends the Education Code to prohibit the suspension of students in kindergarten through twelfth grade from school based on willful defiance.

Background

SB 274 is designed to keep students in school who might otherwise be suspended for lower-level behavioral conduct that constitutes “willful defiance.” The legislative statement accompanying the bill declared that research demonstrates that at-risk students, such as students of color, homeless students, students with disabilities, foster youth, and LGBTQIA+ students, are more likely to be suspended for conduct deemed willfully defiant or disruptive, as compared to their peers.

Under existing law, subdivision (k) of Education Code section 48900 (and section 48901.1 for charter schools) prohibits the suspension of students in kindergarten and grades one through eight and the recommendation of expulsion of students in all grades for disruption of school activities or willful defiance of the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. In other words, only students in grades nine through twelve may be suspended under Education Code section 48900, subdivision (k), and only after other means of correction have failed to bring about proper conduct.

New Law

With the enactment of SB 274, the prohibition of willful defiance suspensions will also apply to students in grades nine to twelve, effective July 1, 2024. This provision sunsets on July 1, 2029. SB 274 also extends the sunset provision of the current prohibition of willful defiance suspensions for students in grades six through eight to July 1, 2029.

Note that while the law will now prohibit willful defiance suspensions *from school*, SB 274 leaves in place the ability for teachers to suspend students *from class* for willful defiance pursuant to Education Code section 48910.

Further, SB 274 authorizes certificated and classified employees, including employees at charter schools, to refer students to school administrators for appropriate in-school intervention or supports to address student behavior. SB 274 requires that such in-school interventions or corrective measures be documented and placed in a student's records within five business days of the measures or interventions taken. If no corrective action or supportive measures are utilized, school administrators must document the rationale as to why such measures were not taken.

Lastly, while existing law states the intent of the Legislature that schools use alternatives to suspension or expulsion for truant, tardy, and absent students, SB 274 prohibits suspension and expulsion of a student solely based on absence from school activities. In lieu of exclusionary discipline, it is the Legislature's intent that the Multi-Tiered System of Supports is utilized to support these students.

Takeaways

SB 274 will become effective for all schools, including charter schools, on July 1, 2024. In the meantime, school administrators should work with staff to review and modify in-school supportive and behavioral interventions to address "willfully defiant" behavior. School administrators should also confer with legal counsel regarding the suspension or expulsion of a student whose behavior may constitute willful defiance or disruptive conduct as defined in Education Code sections 48900 and 48901.1 to ensure legal compliance.

If you have questions about SB 274 and compliance with state law, please contact the authors of this News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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