

ASSEMBLY BILL

No. 969

**Introduced by Assembly Member Williams
(Coauthor: Assembly Member Rendon)**

February 26, 2015

An act to amend Sections 76034 and 76038 of the Education Code, relating to community college districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 969, as introduced, Williams. Community college districts: removal, suspension, or expulsion.

(1) Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.

Existing law prohibits a community college student from being removed, suspended, or expelled unless the conduct for which the student is disciplined is related to college activity or attendance.

This bill would instead prohibit a community college student from being removed, suspended, or expelled unless the conduct for which the student is disciplined is related to college activity or attendance, or is conduct that threatens the safety of students or the public, whether that conduct occurs on or off campus.

(2) Existing law authorizes the governing board of a district to either deny enrollment, permit enrollment, or permit conditional enrollment to any individual who has been expelled from a community college

within the preceding 5 years, or who is, at the time of the application, undergoing expulsion procedures, for certain offenses, as provided, if the board determines that the person continues to pose a risk to the safety of others. Existing law requires the board or a delegate to hold a hearing, before taking action to deny enrollment or permit conditional enrollment, to determine whether the person continues to pose a risk.

This bill would expand this authorization, to either deny enrollment, permit enrollment, or permit conditional enrollment, to include an individual who has been suspended for a sexual assault or sexual battery offense from another community college district, as specified. The bill would also authorize a community college district to require a student seeking admission to inform the community college district if he or she has been previously suspended from a community college in the state for rape, sexual assault, or sexual battery. By imposing additional duties on a community college district, this bill would impose a state-mandated local program.

(3) 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 76034 of the Education Code is amended
- 2 to read:
- 3 76034. No student shall be removed, suspended, or expelled
- 4 unless the conduct for which the student is disciplined is related
- 5 to college activity or college ~~attendance~~. *attendance, or is conduct*
- 6 *that threatens the safety of students and the public, whether that*
- 7 *conduct occurs on or off campus.*
- 8 SEC. 2. Section 76038 of the Education Code is amended to
- 9 read:
- 10 76038. (a) If the governing board of a community college
- 11 district receives an application for admission from an individual
- 12 who has been expelled from another *community college* district

1 *or suspended for a sexual assault or sexual battery offense from*
2 *another community college district pursuant to this article within*
3 *the preceding five years, or who is undergoing expulsion*
4 *procedures in another district, for any of the offenses listed in*
5 *subdivision (b), before taking action to deny enrollment or permit*
6 *conditional enrollment as authorized by subdivision-~~(e)~~, ~~(f)~~, the*
7 *governing board or delegate pursuant to subdivision-~~(f)~~ ~~(g)~~ shall*
8 *hold a hearing, conducted in accordance with this section and the*
9 *applicable rules and regulations governing enrollment hearings*
10 *authorized by this section and adopted in accordance with Section*
11 *66300, to determine whether that individual poses a continuing*
12 *danger to the physical safety of the students and employees of the*
13 *district.*

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

16 (1) Committed or attempted to commit murder.

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

21 (3) Committed or attempted to commit a sexual assault as
22 defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal
23 Code or committed sexual battery as defined in Section 243.4 of
24 the Penal Code.

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

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

30 (6) Committed stalking as defined in Section 646.9 of the Penal
31 Code.

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

34 (c) A community college district may request information, and
35 respond to a request for information, from another community
36 college district to determine whether an applicant continues to
37 pose a danger to the physical safety of others.

38 (d) A community college district may require a student seeking
39 admission who has been previously expelled from a community
40 college in the state for any of the actions listed in subdivision (b)

1 to inform the district of his or her prior expulsion. Failure to do so
2 may be considered by the district in determining whether to grant
3 admission, and a written record of the fact may be maintained by
4 the district with the applicant's file.

5 *(e) A community college district may require a student seeking*
6 *admission who has been previously suspended from a community*
7 *college in the state for rape, sexual assault, or sexual battery to*
8 *inform the district of his or her prior suspension. Failure to do so*
9 *may be considered by the district in determining whether to grant*
10 *admission, and a written record of the fact may be maintained by*
11 *the community college district with the applicant's file.*

12 ~~(e)~~

13 *(f) The governing board of a community college district, upon*
14 *making a determination pursuant to subdivision (a), shall take into*
15 *consideration evidence of subsequent offenses and rehabilitative*
16 *efforts since the offense and may take any of the following actions:*

17 (1) Deny enrollment.

18 (2) Permit enrollment.

19 (3) Permit conditional enrollment.

20 ~~(f)~~

21 *(g) The governing board of a community college district may*
22 *delegate any authority under this section to the superintendent or*
23 *president of a community college district, or his or her designee,*
24 *or a threat assessment crisis response team pursuant to rules and*
25 *regulations adopted pursuant to Section 66300.*

26 ~~(g)~~

27 *(h) Before the governing board of a community college district*
28 *takes action as authorized under this section, the governing board*
29 *shall establish a formal appeals process for students denied*
30 *enrollment to appeal the decision to the governing board. A student*
31 *who is denied enrollment under subdivision-~~(e)~~ (f) may appeal the*
32 *decision to deny enrollment to the governing board of the*
33 *community college district.*

34 ~~(h)~~

35 *(i) This section shall not be construed to impose any duty on a*
36 *community college district to review applicants for admission or*
37 *review previously enrolled students, whether returning or*
38 *continuing, or to conduct a hearing in response to the receipt of*
39 *any information regarding a potential, former, or existing student.*

40 ~~(i)~~

1 (j) In accordance with Sections 815.2 and 820.2 of the
2 Government Code, a community college district, a member of the
3 governing board of a community college district, an officer or
4 employee of a community college district, including a
5 superintendent of a community college district, a president of a
6 community college district, and the designee of a president or a
7 superintendent, shall not be liable for an injury resulting from an
8 exercise of discretion pursuant to this section, including, but not
9 limited to, an exercise of discretion not to conduct a hearing when
10 a hearing is not required.

11 (j)
12 (k) This section shall not apply to the admission of students for
13 whom a community college district has discretion to admit pursuant
14 to Section 76000.

15 SEC. 3. If the Commission on State Mandates determines that
16 this act contains costs mandated by the state, reimbursement to
17 local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.