

AMENDED IN ASSEMBLY APRIL 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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, *each* 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.

Existing law requires the governing boards of each community college district, in order to receive state funds for student financial assistance, to adopt policies concerning sexual assault, domestic violence, dating violence, and stalking that include certain elements, including an affirmative consent standard in the determination of whether consent was given by a complainant.

This bill would expand ~~this authorization, the authorization to either deny enrollment, permit enrollment, or permit conditional enrollment, to include enrollment to apply to an individual who has been expelled from another community college district within the preceding 5 years, who is currently suspended from another district, or who is undergoing expulsion procedures in another district, for a sexual assault or sexual battery offense from another community college district, as specified: certain offenses or for a violation of a district's adopted policies concerning sexual assault, domestic violence, dating violence, and stalking described above.~~ The bill would also authorize a community college district to require a student seeking admission to inform the community college district *considering admitting the student* if he or she has been previously *expelled or is currently suspended* from a community college in the state for ~~rape, sexual assault, or sexual battery: a violation of that community college's district-adopted policies concerning sexual assault, domestic violence, dating violence, and stalking.~~ 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:

SECTION 1. Section 76034 of the Education Code is amended to read:

76034. No student shall be removed, suspended, or expelled unless the conduct for which the student is disciplined is related to college activity or college attendance, or is conduct that threatens the safety of students and the public, whether that conduct occurs on or off campus.

SEC. 2. Section 76038 of the Education Code is amended to read:

76038. (a) If the governing board of a community college district receives an application for admission from an individual who has been expelled from another community college district ~~or suspended for a sexual assault or sexual battery offense from another community college district pursuant to this article within the preceding five years, who is currently suspended from another district,~~ or who is undergoing expulsion procedures in another district, for any of the offenses listed in subdivision ~~(b);~~ (b) *or for a violation of a district's policies adopted pursuant to Section 67386,* before taking action to deny enrollment or permit conditional enrollment as authorized by subdivision (f), the governing board or delegate pursuant to subdivision (g) shall hold a hearing, conducted in accordance with this section and the applicable rules and regulations governing enrollment hearings authorized by this section and adopted in accordance with Section 66300, to determine whether that individual poses a continuing danger to the physical safety of the students and employees of the district.

(b) For purposes of this section, "offense" means one of the following:

(1) Committed or attempted to commit murder.

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

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

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

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

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

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

10 (c) A community college district may request information, and
11 respond to a request for information, from another community
12 college district to determine whether an applicant continues to
13 pose a danger to the physical safety of others.

14 (d) A community college district may require a student seeking
15 admission who has been previously expelled from a community
16 college in the state for any of the actions listed in subdivision (b)
17 to inform the district of his or her prior expulsion. Failure to do so
18 may be considered by the district in determining whether to grant
19 admission, and a written record of the fact may be maintained by
20 the district with the applicant's file.

21 (e) A community college district may require a student seeking
22 admission who has been previously *expelled or is currently*
23 *suspended from a community college in the state for rape, sexual*
24 *assault, or sexual battery a violation of that district's policies*
25 *adopted pursuant to Section 67386* to inform the district
26 *considering admitting the student* of his or her prior *expulsion or*
27 *current* suspension. Failure to do so may be considered by the
28 district in determining whether to grant admission, and a written
29 record of the fact may be maintained by the community college
30 district with the applicant's file.

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

35 (1) Deny enrollment.

36 (2) Permit enrollment.

37 (3) Permit conditional enrollment.

38 (g) The governing board of a community college district may
39 delegate any authority under this section to the superintendent or
40 president of a community college district, or his or her designee,

1 or a threat assessment crisis response team pursuant to rules and
2 regulations adopted pursuant to Section 66300.

3 (h) Before the governing board of a community college district
4 takes action as authorized under this section, the governing board
5 shall establish a formal appeals process for students denied
6 enrollment to appeal the decision to the governing board. A student
7 who is denied enrollment under subdivision (f) may appeal the
8 decision to deny enrollment to the governing board of the
9 community college district.

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

15 (j) In accordance with Sections 815.2 and 820.2 of the
16 Government Code, a community college district, a member of the
17 governing board of a community college district, an officer or
18 employee of a community college district, including a
19 superintendent of a community college district, a president of a
20 community college district, and the designee of a president or a
21 superintendent, shall not be liable for an injury resulting from an
22 exercise of discretion pursuant to this section, including, but not
23 limited to, an exercise of discretion not to conduct a hearing when
24 a hearing is not required.

25 (k) This section shall not apply to the admission of students for
26 whom a community college district has discretion to admit pursuant
27 to Section 76000.

28 SEC. 3. If the Commission on State Mandates determines that
29 this act contains costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.