

Date of Hearing: March 27, 2012

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Marty Block, Chair

AB 2171 (Fong) – As Amended: March 21, 2012

SUBJECT: Public postsecondary education: community colleges: expulsion hearing.

SUMMARY: Authorizes a California Community College district (CCCD) governing board to, under specified circumstances, deny admission to an applicant who has been expelled from a CCCD. Specifically, this bill:

- 1) Allows a CCCD governing board to deny enrollment to an applicant upon finding through a hearing, under rules and regulations adopted pursuant to existing law requirements, that the applicant has been expelled within the preceding five years or is undergoing expulsion procedures in another CCCD, for specified offenses, and that the applicant continues to present a danger to the physical safety of the students and employees of the CCCD.
- 2) Defines offenses to include:
 - a) Committed or attempted to commit murder.
 - b) Caused, attempted to cause, or threatened to cause physical injury to another person, as defined in the Penal Code, except in cases of self-defense.
 - c) Committed or attempted to commit a sexual assault or committed sexual battery, as defined in the Penal Code.
 - d) Committed or attempted to commit kidnapping, or seized, confined, inveigled, enticed, decoyed, abducted, concealed, kidnapped, or carried away another person by any means with the intent to hold or detain that person for ransom or reward.
 - e) Committed or attempted to commit robbery or extortion.
 - f) Committed stalking as defined in the Penal Code.
 - g) Unlawfully possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object.
- 3) Provides that a CCCD may request information from another CCCD in determining whether the applicant continues to pose a danger to the physical safety of others and, requires the CCCD receiving such a request to respond within five working days.
- 4) Allows a CCCD to require applicants who have been previously expelled from a CCCD for any of the defined offenses to inform the CCCD of his or her prior expulsion and allows a CCCD to consider the failure of an applicant to do so in determining whether to grant admission.

- 5) Allows the CCCD governing board, when making a determination on whether to enroll an applicant who has been expelled from another CCCD for one of the defined acts, to consider denying enrollment, permitting enrollment, or permitting conditional enrollment.
- 6) Provides that a CCCD governing board may delegate any authority under this bill to the superintendent or president of a CCCD, or his/her designee, or a threat assessment crisis team pursuant to adopted rules.
- 7) Requires that a CCCD establish an appeals process prior to taking action pursuant to the authority provided by this bill, and provides that a student denied enrollment under the provisions of this bill may appeal the decision.
- 8) Establishes that the provisions of this bill shall not be construed to impose any duty on a CCCD to review applicants for admission or review previously enrolled students or to conduct a hearing in response to the receipt of information, and releases from liability for an injury resulting from an exercise of discretion pursuant to this section any CCCD officials.
- 9) Provides immunity from liability for specified CCCD employees for an injury resulting from an exercise of the discretion provided pursuant to this bill, in accordance with existing Government Code provisions relative to liability of public employees.

EXISTING LAW:

- 1) Provides that a CCCD governing board is authorized to expel a student for good cause when other means of correction fail to bring about proper conduct, or when the presence of the student causes a continuing danger to the physical safety of the student or others. Provides that the expulsion shall be accompanied by a hearing.
- 2) Provides that a CCCD governing body may exclude students from attendance for "filthy or vicious habits, or students suffering from contagious or infectious diseases" as well as "any student whose physical or mental disability is such as to cause his or her attendance to be inimical to the welfare of other students."

FISCAL EFFECT: Unknown, however, according to the Senate Appropriations analysis of substantially similar legislation (AB 288, 2011), potentially significant reimbursable state mandate costs for the required enrollment notification and information request processes.

COMMENTS: Purpose of this bill. According to the author, CCC's are the only public educational segment in California without the ability to ensure campus safety at one CCCD through a screening process of students who have been expelled from another CCCD. Currently, a student who is expelled from one CCCD for a violent offense can freely enroll in another CCCD without that CCCD's knowledge of his or her expulsion. This bill addresses these problems by requiring a student enrolling in a CCC to disclose that he or she had been expelled for a violent offense from a CCCD, requiring a CCCD that had expelled a student for one of the specified reasons to provide the information to the receiving CCCD upon request, authorizing a receiving CCCD to conduct a hearing in order to determine if a student posed a threat to the faculty, staff, or other students, and allowing the CCCD to deny enrollment to this student if deemed necessary to ensure the safety of those on campus.

Background. In September of 2007, the CCC Chancellor's Office (CCCCO) responded to a request from Mt. San Antonio College for a legal opinion regarding the CCCD's interactions with students who have criminal records, sharing student disciplinary information, and disciplining students. The CCCCCO opined, among other findings, that current admission laws do not allow a CCCD to deny admission based on discipline imposed by a different CCCD. According to the sponsor, this bill was introduced to establish a process whereby CCCDs can deny admission to individuals who pose a safety threat to others on campuses.

Circumstances under which a student may be expelled from a CCC. Existing law requires CCCs to adopt rules for student conduct standards and related penalties for violating those standards. A student's history (prior criminal activity) or speculations about what a student might do in the future are not a basis for imposing discipline. Existing law authorizes a CCCD to expel a student for good cause, which is defined to include:

- 1) Continued disruptive behavior, continued willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority of, or persistent abuse of, college personnel;
- 2) Assault, battery, or any threat of force or violence upon a student or college personnel;
- 3) Willful misconduct that results in injury or death to a student or college personnel or that results in cutting, defacing, or other injury to any real or personal property owned by the district;
- 4) The use, sale, or possession on campus of, or presence on campus under the influence of, any controlled substance or specified poisons;
- 5) Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the governing board; and,
- 6) Persistent, serious misconduct where other means of correction have failed to bring about proper conduct.

Existing law also provides that, "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." However, in a 1966 opinion, the Attorney General determined that if a CCCD could identify a link between the conduct and school activities or attendance, then conduct that occurred away from school could be considered for disciplinary purposes. However, as the CCCCCO opined, if a college student commits a crime that has nothing to do with a college activity or with college attendance, the college will be hard-pressed to suspend or expel the student for that conduct, based on existing law.

Recent expulsion data from CCCs. According to a survey of 55 CCC campuses provided by the sponsor, 29 individuals in the 2007-2008 academic year and 17 in the 2009-10 academic year were expelled from CCCs. Reasons identified for expulsion include harassment of students and faculty, vandalism of school property, and falsifying college transcripts and instructor signatures, among other activities.

Other public higher education policies regarding expulsion. Executive Order No. 970 governs student conduct procedures at California State University (CSU) and affords students due process and provide guidance to campuses to address student misconduct. According to CSU, if a student is expelled from CSU, they are expelled from their home campus and the entire CSU system. At University of California (UC) readmission to UC following an expulsion requires the specific approval of the Chancellor of the campus to which an expelled student has applied and readmission after expulsion may be granted only under exceptional circumstances.

Prior legislation. AB 288 (Fong, 2011) was substantially similar to this bill. In his veto of AB 288, Governor Brown wrote, in part, "requiring every community college to follow a uniform process for evaluating a student expulsion taken by another district adds unnecessary burdens and costs that the state will have to reimburse."

AB 1400 (Fong, 2010) was substantially similar to this bill. In his veto of AB 1400, Governor Schwarzenegger wrote, in part, "As drafted, the bill creates an uneven standard between students who could be denied admission because of criminal acts they may have committed in the past. Since I am committed to having community colleges be both safe places for quality education, as well as open institutions of hope for all students, I am asking the CCC Board of Governors to work in collaboration with CCC Chancellor Scott to work on a policy that will most effectively address this issue for the campuses." According to the CCC Chancellors Office (CCCCO), discussions occurred in response to the Governor's request, however it appears that a new statute would be required in order for the CCCCCO to issue regulations on this matter.

REGISTERED SUPPORT / OPPOSITION:

Support

Board of Governors of the California Community Colleges
Chief Executive Officers of the California Community Colleges
Kern Community College District
Rio Hondo Community College District
San Diego Community College District
San Jose-Evergreen Community College District
Peralta Community College District

Opposition

None on File

Analysis Prepared by: Laura Metune / HIGHER ED. / (916) 319-3960