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**AB-1165 Pupil discipline: racist bullying, harassment, or intimidation: restorative justice practice.** (2023-2024)

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**Assembly Bill No. 1165**

**CHAPTER 22**

An act to amend Section 48900.5 of the Education Code, relating to pupil discipline.

[ Approved by Governor June 29, 2023. Filed with Secretary of State June 29, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1165, McCarty. Pupil discipline: racist bullying, harassment, or intimidation: restorative justice practice.

Existing law prohibits a pupil from being suspended from school or recommended for expulsion unless the superintendent of the school district or principal of the school determines that the pupil has committed any of various specified acts. Existing law requires suspension to only be imposed when other means of correction, including, but not limited to, participation in a restorative justice program, fail to bring about proper conduct, except that the suspension of a pupil for a first offense is authorized if the principal or superintendent of schools determines that the pupil violated one of a certain subset of those enumerated acts or that the pupil's presence causes a danger to persons.

This bill would, for a pupil who has been suspended, or for whom other means of correction have been implemented, for an incident of racist bullying, harassment, or intimidation, encourage local educational agencies to have both the victim and perpetrator engage in a restorative justice practice that is found to suit the needs of both the victim and the perpetrator. The bill would encourage local educational agencies to regularly check on the victim of the racist bullying, harassment, or intimidation to ensure that the victim is not in danger of suffering from long-lasting mental health issues, and would also encourage local educational agencies to require perpetrators to engage in culturally sensitive programs, as provided.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 48900.5 of the Education Code is amended to read:

**48900.5.** (a) Suspension, including supervised suspension as described in Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed pursuant to Section 49069.7. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended, subject to Section 1415 of Title 20 of the United States Code, for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons.

(b) Other means of correction include, but are not limited to, the following:

(1) A conference between school personnel, the pupil's parent or guardian, and the pupil.

(2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.

(3) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and the pupil's parents.

(4) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)).

(5) Enrollment in a program for teaching prosocial behavior or anger management.

(6) Participation in a restorative justice program.

(7) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.

(8) After school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.

(9) Any of the alternatives described in Section 48900.6.

(c) For a pupil who has been suspended, or for whom other means of correction have been implemented pursuant to subdivision (b), for an incident of racist bullying, harassment, or intimidation, local educational agencies are encouraged to have both the victim and perpetrator engage in a restorative justice practice that is found to suit the needs of both the victim and the perpetrator. Local educational agencies are encouraged to regularly check on the victim of racist bullying, harassment, or intimidation to ensure that the victim is not in danger of suffering from long-lasting mental health issues. Local educational agencies are encouraged to require perpetrators to engage in culturally sensitive programs that promote racial justice and equity and combat racism and ignorance.