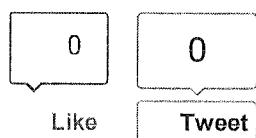




# State laws leave room for interpretation when it comes to school suspensions

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One of the main reasons students are suspended from California schools is for “disrupting school activities” or “willfully defying” school authorities, which are largely undefined terms open to substantial interpretation, or misinterpretation, by school officials.

“Willful defiance” has proven to be among the most problematical of the lengthy list of behaviors subject to suspension or expulsion under state law. During the last school year, 42 percent of all suspensions in California were attributed to such behavior, as described in section 48900 (k) of the California Education Code.

The term is so troublesome that Assemblyman Roger Dickinson, D-Sacramento, chairman of the Assembly Committee on Youth Delinquency Prevention and Youth Development, wants to strip the “willful defiance” provision from state law as a reason students can receive an out-of-school suspension or be recommended for expulsion. In justifying the legislation he introduced two weeks ago (AB 2242), he asserted that:

**Under this highly subjective category (willful defiance), students are sent home and denied valuable instruction time for anything from failing to turn in homework, not paying attention, or refusing to follow directions, take off a coat or hat, or swearing in class. They can also be potentially expelled from the district for such offenses.**

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Under his legislation, students punished for “willful defiance” could only be subjected to an “in-school suspension” in a special on-campus classroom, instead of being banished from campus.

New federal data issued this week showed that African American students disproportionately run afoul of school discipline policies. Although African Americans comprise only 18% of students, they make up 35% of first-time suspensions and 39% of expulsions. But the report issued by the U.S. Department of Education’s Office of Civil Rights did not analyze the reasons students were disciplined.

The subjective nature of the “willful defiance” category contrasts with other sections of the state’s disciplinary code that describe specific behaviors subject to discipline, such as brandishing a knife, possessing drugs, or assaulting a school employee.

Instead, “willful defiance” can be defined in any number of ways depending on the district, according to Julia Mendoza of the ACLU of Northern California, which filed California Public Records Act requests recently to obtain disciplinary information from several districts.

In its handbook, *Discipline in California Schools: Legal Requirements and Positive School Environments*, the ACLU advises districts to define as clearly as possible what counts as “willful defiance” and communicate parameters for how educators should respond.

The ACLU argues that racial minorities are more likely to be suspended in vague behavioral categories like these, pointing out that “national research shows that students of color are disproportionately referred for offenses of defiance, disobedience, and disrespect.”

To some educators, it may be advantageous that the law does not spell out in too much detail every behavior that warrants suspension and expulsion. So-called “zero tolerance” laws, for example, have been criticized in some school districts for being too prescriptive and not giving school administrators enough flexibility in how to respond to a particular behavior or situation.

Some districts, such as Stockton Unified, are looking into the issue. Dee Alimbini, the district’s administrator for child welfare and attendance, says her district has set up a task force this year to reach consensus on what constitutes “willful defiance” so that it is not left up to individual administrators.

“A hard-nosed principal will write up a student where another principal wouldn’t,” she said. “That’s not fair. We’re trying to create a system that lives beyond me and the others involved.”

After the release of the national data showing the disproportionate disciplining of African American students, State Superintendent of Public Instruction Tom Torlakson recommended that districts review their school discipline data.

“I encourage all local educational agencies to continue to collect and analyze their suspension and expulsion data to determine whether their current practices are meeting the needs of their students, keeping in mind that the objective is to keep as many students as possible in a learning environment,” he said in a statement.

“On some level, defiance and disruption are everyday activities,” said Michael Milliken, director of secondary education for Palo Alto Unified, a district with relatively few suspensions. In his district, 22 percent of the suspensions in 2009–10 were for disrupting school activities or willful defiance, about half of the statewide rate. “You have to pick your battles

and try to keep it in perspective," he said.

***Details of Assembly Bill 2242:*** If enacted, the bill would change the "willful defiance" section of the California Education Code (Section 48900 k) from:

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**Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.**

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to:

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**Intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected result of creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.**

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However, under a new section of the education code (48911.3), students could still be punished for "willful defiance," but only with an in-school suspension "in a supervised suspension classroom."