

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 1421 (Stern)
Version: April 11, 2024
Hearing Date: April 16, 2024
Fiscal: Yes
Urgency: No
ME

SUBJECT

Educational equity: Uniform Complaint Procedures: Office of Civil Rights

DIGEST

This bill requires the State Department of Education (Department) to establish the Office of Civil Rights (Office) within the Department to: receive and investigate complaints reported pursuant to the uniform complaint procedures (Educ. Code § 33315) that allege unlawful discrimination, harassment, intimidation, or bullying; to assume the Department's duties as it pertains to these complaints; and to develop procedures to optimize complaint reporting and response.

EXECUTIVE SUMMARY

Although there is currently a system whereby the Department processes complaints that allege unlawful discrimination, harassment, intimidation, and bullying of California students, known as the Uniform Complaint Procedures (UCP), the sponsors and author of this bill wish to create an Office of Civil Rights (Office) within the Department to receive and investigate complaints that allege unlawful discrimination, harassment, intimidation, or bullying. They want to place extra focus on these complaints and elevate them above the other complaints that the Department must process currently under the UCP. Additionally, the office would be required to receive and investigate complaints relating to access to a high-quality education, instruction, instructional materials, and other matters as determined independently by the Department or the State Board of Education. The Office would assume the Department's duties pertaining to these complaints, develop procedures to optimize complaint reporting and response, and provide a written account to the Department on the frequency of incidents of discrimination, harassment, intimidation, or bullying, including homophobia, transphobia, anti-Semitism, and Islamophobia, at local educational agencies (LEAs). Under the bill, the Office would advise the Department on the Office's investigations and provide other recommendations to the Department, including follow-up actions that may be taken in response to a complaint.

The Committee has not received timely opposition to this bill. This bill passed out of the Senate Education Committee with a vote of 7 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Requires the Superintendent of Public Instruction to establish and implement a system of complaint processing, known as the UCP, for specified educational programs, and requires the Department to review those regulations pertaining to uniform complaint procedures for specified types of complaints, including those that allege unlawful discrimination, harassment, intimidation, or bullying against any protected group, as provided. (Educ. Code § 33315.)
- 2) Requires the Department, on or before March 31, 2019, to commence rulemaking proceedings to revise those regulations, as necessary, to conform to specified provisions. (*Id.*)
- 3) Provides that the UCP shall apply to all of the following:
 - a) specified adult education programs; (Educ. Code § 33315(a)(1)(A).)
 - b) consolidated categorical aid programs, as specified; (Educ. Code § 33315(a)(1)(B).)
 - c) migrant child education, as specified; (Educ. Code § 33315(a)(1)(C).)
 - d) career technical and technical education and career technical and technical training programs, as specified; (Educ. Code § 33315(a)(1)(D).)
 - e) childcare and development programs, as specified; (Educ. Code § 33315(a)(1)(E).)
 - f) the filing of complaints that allege unlawful discrimination, harassment, intimidation, or bullying against any protected group as identified under Sections 200 and 220 and Section 11135 of the Penal Code, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, in any program or activity conducted by an educational institution, as defined in Section 210.3, that is funded directly by, or that receives or benefits from, any state financial assistance; (Educ. Code § 33315(a)(1)(F).)
 - g) lactation accommodation, as specified; (Educ. Code § 33315(a)(1)(G).)
 - h) educational rights of foster youth, as specified, and graduation requirements for foster youth, homeless youth, and other youth, as specified; (Educ. Code § 33315(a)(1)(H).)
 - i) pupil fees, as specified; (Educ. Code § 33315(a)(1)(I).)
 - j) courses of study, as specified; (Educ. Code § 33315(a)(1)(J).)
 - k) instructional minutes for physical education, as specified; (Educ. Code § 33315(a)(1)(K).)
 - l) local control and accountability plans, as specified; (Educ. Code § 33315(a)(1)(L).)
 - m) juvenile court schools, as specified; (Educ. Code § 33315(a)(1)(M).)
 - n) school safety plans, as specified; (Educ. Code § 33315(a)(1)(N).)

- o) deficiencies related to preschool health and safety issues, as specified; and (Educ. Code § 33315(a)(1)(O).)
 - p) any other state or federal educational program the Superintendent deems appropriate. (Educ. Code § 33315(a)(1)(P).)
- 4) Requires the Department to develop a pamphlet for parents that explains the UCP in a user-friendly manner and to post the pamphlet on the Department's website. (Educ. Code § 33315.)(a)(3).)
 - 5) Provides that, except for cases of complaints related to child nutrition, a complainant who appeals a decision of a LEA under the UCP to the Department shall receive a written appeal decision within 60 days of the Department's receipt of the appeal, unless extended by written agreement with the complainant or the Department documents exceptional circumstances and informs the complainant. (Educ. Code § 33315(a)(4).)
 - 6) Provides that, except for cases of complaints related to child nutrition, for those complaints that are filed directly with the Department under the UCP and the Department determines merit direct intervention, the Department shall complete an investigation and provide a written decision to the complainant within 60 days of receipt of the complaint, unless the parties have agreed to extend the timeline or the Department documents exceptional circumstances and informs the complainant. (Educ. Code § 33315(a)(5).)
 - 7) Provides that if a LEA finds merit in a complaint, or the Superintendent finds merit in an appeal, filed under the UCP, the LEA shall take corrective actions consistent with the requirements of existing law that will provide a remedy to the affected pupil, or, in the case of complaints related to paragraphs (3)(i), (3)(j), (3)(k), and (3)(l), above, to all affected pupils, parents, and guardians. For corrective actions related to (3)(i), above, remedies shall, where applicable, include reasonable efforts by the public school to ensure full reimbursement.
 - 8) Provides that the governing board of a school district has the primary responsibility for ensuring that school district programs and activities are free from discrimination based on age and characteristics protected pursuant to the Penal Code, and for monitoring compliance with any and all rules and regulations. (Educ. Code § 260.)
 - 9) The Safe Place to Learn Act requires the CDE to monitor adherence to federal and state non-discrimination laws in any program or activity conducted by an educational institution as part of its regular monitoring and review of LEAs, commonly known as the Categorical Program Monitoring process. Existing law requires CDE to assess whether LEAs have taken specified actions relative to anti-discrimination policies, complaint and investigation processes, documentation, protection from retaliation, and identification of the responsible LEA officer for ensuring compliance. (Educ. Code § 234 et seq)

This bill:

- 1) Specifies that the Legislature finds and declares all of the following:
 - a) in 2022, hate crimes in California increased by 20 percent;
 - b) the alarming rise in hate incidents continued into 2023, with recent spikes in anti-Semitic and Islamophobic incidents;
 - c) in just the first six months of the state's new California vs Hate hotline support services, over 500 hate incidents were reported;
 - d) the problem is acute in California schools, which need to be equipped to deal with incidents of unlawful discrimination, harassment, intimidation, and bullying in an appropriate and timely manner so that students feel safe and protected;
 - e) currently, complaints may be reported pursuant to the UCP;
 - f) a UCP complaint is a written and signed statement that alleges a violation of federal or state laws, which may include an allegation of unlawful discrimination, harassment, intimidation, or bullying; however, the Department is overburdened with complaints filed under the UCP and, due to existing procedures, complaints cannot be immediately investigated;
 - g) the Department does not have adequate resources to investigate, respond to, or follow up on UCP complaints of unlawful discrimination, harassment, intimidation, or bullying in a timely matter; and
 - h) pupils need to feel that they will be safe and defended from hate.
- 2) Defines: "local educational agency" as having the same meaning as in Section 4600 of Title 5 of the California Code of Regulations; "report" as a complaint described in § 33315(a)(1)(F), including a complaint that alleges homophobia, transphobia, anti-Semitism, or Islamophobia, made pursuant to the uniform complaint procedures established pursuant to § 33315.
- 3) Requires the Department to establish the Office of Civil Rights (Office) within the Department for purposes of receiving and investigating reports and carrying out the following duties: assuming the Department's duties described in Section 33315(a)(4)&(5), as it pertains to reports, to the extent determined by the Department; developing procedures to optimize reporting and response; providing a written account to the Department on the frequency of incidents of unlawful discrimination, harassment, intimidation, or bullying, including homophobia, transphobia, anti-Semitism, and Islamophobia, at local educational agencies; advising the Department on the office's investigations pursuant to this article; and providing other recommendations to the Department, including follow-up actions that may be taken in response to a report.
- 4) Requires the Office to receive and investigate complaints relating to access to high-quality education, instruction, instructional materials, and other matters as determined independently by the Department or the State Board of Education.

COMMENTS

1. Author statement

The author writes:

As the author of SB 1421, I am dedicated to advancing equity and civil rights in California's classrooms. This bill would create an Office of Civil Rights within the California Department of Education, emphasizing the importance of addressing systemic inequalities and discrimination in our schools. By concentrating oversight and enforcement efforts, the Office of Civil Rights would ensure that all students have equal access to quality education and are protected from discrimination based on race, ethnicity, gender, religion, limited ability, and other factors. This office would play a pivotal role in promoting diversity, inclusion, and social justice throughout California's educational landscape.

2. Discrimination, harassment, intimidation, and bullying have increased in California

The author points to various sources that report increases in discrimination, harassment, intimidation, and bullying in California.

From 2021 to 2022, hate crimes increased by 20% in California.¹ In that same time frame the state saw a 27.1% increase in reported hate crimes where Black Californians were the target and a 29% increase in hate crimes involving sexual orientation bias.² The staggering increase continued into 2023, with recent spikes in antisemitic and Islamophobic incidents.³ In the first six months of the state's new California vs. Hate hotline existing, support services saw over 500 hate incidents reported.⁴

2022 data from the FBI revealed that 10.2% of reported hate crimes in the nation happened at school locations.⁵ The problem is acute in California schools, which need to be equipped to deal with incidents of unlawful discrimination, harassment, intimidation, and bullying in an appropriate and timely manner so that students feel supported and defended from hate.

The Senate Education Committee analysis of this bill highlights the following:

¹ <https://calmatters.org/california-divide/2023/09/hate-crimes-california/>

² <https://oag.ca.gov/news/press-releases/attorney-general-bonta-releases-2022-hate-crime-report-highlights-continued/>

³ [https://www.adl.org/resources/press-release/adl-reports-unprecedented-rise-antisemitic-incidents-post-oct-;](https://www.adl.org/resources/press-release/adl-reports-unprecedented-rise-antisemitic-incidents-post-oct-) [https://www.pewresearch.org/social-trends/2020/07/01/many-black-and-asian-americans-say-they-have-experienced-discrimination-amid-the-covid-19-outbreak/;](https://www.pewresearch.org/social-trends/2020/07/01/many-black-and-asian-americans-say-they-have-experienced-discrimination-amid-the-covid-19-outbreak/) <https://jweekly.com/2023/11/10/the-public-square-is-toxic-as-conflict-grows-more-bay-area-jews-feel-unsafe/>

⁴ Civil Rights Department, Local Government and Community Partners Join Together for Launch of Sixth Annual United Against Hate Week | CRD

⁵ <https://www.justice.gov/hatecrimes/hate-crime-statistics>

Uniform Complaint Procedures. As prescribed by statute and regulations, each LEA has the primary responsibility to ensure compliance with applicable state and federal laws and regulations. Each LEA is required to investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, harassment, intimidation or bullying and seek to resolve those complaints.

LEAs have 60 days to investigate complaints and issue a written decision; CDE has an additional 60 days to review appeals and issue a written decision, as described below.

Investigation of complaint

Upon receipt of a complaint, the LEA staff who is responsible for the investigation of the complaints must conduct and complete an investigation of the complaint and prepare a written LEA Investigation Report. This process must adhere to a 60-day time period, which may be extended with the written agreement of the complainant.

Investigation report

The investigation must include an opportunity for the complainant to present evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations. The LEA is required to issue an LEA Investigation Report based on the evidence. The LEA Investigation Report must be in writing and sent to the complainant within 60 days from receipt of the complaint by the LEA, subject to any agreed upon extension. The LEA Investigation Report must include: The findings of fact based on the evidence gathered; Conclusion providing a clear determination as to each allegation as to whether the LEA is in compliance with the relevant law; If the LEA finds merit in the complaint, corrective actions; Notice of the complainant's right to appeal the LEA Investigation Report to the CDE; and Procedures to be followed for initiating an appeal to the CDE.

Appeal

The complainant may appeal an LEA Investigation Report to the CDE by filing a written appeal within 30 days of the date of the LEA Investigation Report. If the CDE determines the appeal raises issues not contained in the local complaint, the CDE will refer those new issues back to the LEA for resolution as a new complaint. If the CDE determines that the LEA Investigation Report failed to address an allegation raised by the complaint and subject to the UCP process, the CDE must notify the LEA of such failure and direct the LEA to investigate and address such allegation(s).

The CDE will proceed with its resolution of the appeal of the LEA Investigation Report as to allegations that have been addressed even while, at the same time, the LEA is preparing an amended investigation report as to any allegation(s) that the CDE identified as not having been addressed. In deciding an appeal, the CDE cannot consider any information not previously presented to the LEA investigator during the investigation, unless requested by the CDE.

Decision on appeal

If CDE determines that the LEA Investigation Report meets specified criteria (procedures were followed, legal conclusions are consistent with law, etc), the appeal is to be denied.

If CDE determines that the LEA Investigation Report is deficient because it does not meet specified criteria, CDE may: a) Notify the LEA of such deficiencies and return the LEA Investigation Report to the LEA for further processing and instruct the LEA to provide both the CDE and the complainant with an amended Investigation Report within 20 days of such notification, which amended report must inform the complainant of the right to appeal; b) Issue a decision based on the evidence in the investigation file received from the LEA; or c) Conduct a further investigation of the allegations which are the basis for the appeal and issue a decision.

An appeal decision issued by CDE must include specified information, such as a finding that the LEA complied or did not comply with its complaint procedures, CDE's determination as to the LEA's findings of fact and conclusions, and corrective actions including a remedy to the affected student(s). The CDE must issue a written decision regarding an appeal to the appellant within 60 days of the CDE's receipt of the appeal, with specified exceptions.

Either party (the LEA or complainant) may request reconsideration by the SPI within 30 days of the date of CDE's appeal decision.

Filing complaint directly to CDE

The CDE is authorized, at its discretion, to directly intervene without waiting for an LEA investigation if one or more of the following situations exist: a) The complaint includes an allegation that an LEA failed to comply with the complaint procedures, including, but not limited to, the failure or refusal of the LEA to cooperate with the investigation; b) The complainant requests anonymity because the complainant would be in danger of retaliation and would suffer immediate and irreparable harm if the complainant filed a complaint with the LEA; c) The complainant alleges that the LEA failed or refused to implement the final LEA Investigation Report resulting from its local investigation or local mediation agreement or a CDE appeal decision; d) The

complainant alleges that through no fault of the complainant, no action has been taken by the LEA within 60 calendar days of the date the complaint was filed. Prior to direct intervention, CDE must attempt to work with the LEA to allow it to complete the investigation and issue an LEA Investigation Report; or e)The complainant alleges that the complainant would suffer immediate and irreparable harm as a result of an application of a district-wide policy that is in conflict with state or federal law covered by this chapter, and that filing a complaint with the LEA would be futile.

When CDE accepts a complaint requesting direct state intervention it will immediately notify the complainant in writing of the determination. If the complaint is not accepted, it is to be referred to the LEA for local investigation, or referred to another agency.

The increase in discrimination, harassment, intimidation, and bullying of our school age children arguably merits the creation of an Office that will focus on investigating complaints alleging discrimination, harassment, intimidation, and bullying.

3. Support

The State Superintendent of Public Instruction, sponsor of the bill, writes the following

In 2022, hate crimes increased [. . .] The problem is acute in California schools, which must address incidents of unlawful discrimination, harassment, intimidation, and bullying in an appropriate and timely manner so that students feel supported and defended from hate.

Ending hate in California schools is one of my top priorities. In September 2020 I launched the “Education to End Hate” initiative that includes a series of strategies. The California Department of Education awarded \$20 million to LEAs for the Antibias Education Grant Program to prevent, address, and eliminate racism and bias in California public schools. Additionally, we continue to host numerous roundtable discussions and webinars to uplift community partners and hear concerns from students, parents, and staff.

It is time to double down on efforts to combat all forms of hate, bias, and bigotry, and this legislation is a crucial step in supporting all California students to feel safe at school.

The Israeli-American Civic Action Network (ICAN) writes the following in support of SB 1421:

In 2022, hate crimes increased by 20% in California. This followed alarming rises in various forms of hate in recent years, including anti-AAPI, anti-Black, and anti-LGBTQ+ incidents. The staggering increase continued into 2023, with

recent spikes in antisemitic and Islamophobic incidents. Just the first six months of the state's new California vs. Hate hotline support services saw over 500 hate incidents reported. The problem is acute in California schools, which need to be equipped to deal with incidents of unlawful discrimination, harassment, intimidation, and bullying in an appropriate and timely manner so that students feel supported and defended from hate.

As it stands, the CDE does not receive civil rights complaints unless they are filed directly with the department or appealed after the local school district has concluded their investigation. When received by the CDE, they are piled in with all other complaints and appeals the CDE receives. This creates a delay in both the investigation and resolution of these complaints.

With a rise in hate and civil rights related complaints being of high importance, ICAN sees a need for the establishment of the "Office of Civil Rights" within the CDE. The passage of SB 1421 would require that when complaints of hate are filed with or appealed to CDE, instead of getting stuck behind other filings, they would be diverted to the Office of Civil Rights to streamline and expedite action on these filings.

SB 1421 not only enables a rapid response to reports of hate in California schools, but also creates a neutral party to adjudicate these issues and presents the opportunity for a more just process.⁶

The Anti-Defamation League, in support of the bill, writes:

[W]e write in support of Senate Bill 1421, which would establish an Office of Civil Rights at the California Department of Education (CDE) to investigate incidents of hate, including discrimination, harassment, intimidation, or bullying related to disability, gender, nationality, race or ethnicity, sexual orientation or religion at local educational agencies (LEAs) to ensure that students feel safe and protected in their schools.

[. . .]

California has seen a dramatic rise in anti-Semitic incidents in recent years including a 41% increase from 2021 to 2022. Nationwide, anti-Semitic events in K-12 schools increased 49% in 2022.

Although our state is experiencing an increase bias incidents, the mechanisms to address them have not. The passage of SB 1421 would require that when complaints of hate are filed with or appealed to CDE, the filings are immediately diverted to the Office of Civil Rights to streamline and expedite

⁶ Citations omitted.

the process. This is critical to ensuring that incidents are addressed in a timely manner.

SUPPORT

State Superintendent of Public Instruction Tony Thurmond (sponsor)
American Jewish Committee Los Angeles
American Jewish Committee San Diego
American Jewish Committee San Francisco
Anti-Defamation League
California Teachers Association
Democrats for Israel-California
Democrats for Israel-Los Angeles
Equality California
ETTA
Hadassah
Hillel of San Diego
Hillel of Silicon Valley
Holocaust Museum LA
Israeli-American Civic Action Network.
Jewish Center for Justice
Jewish Community Federation and Endowment Fund
Jewish Community Relations Council, Bay Area
Jewish Community Relations Council, Sacramento
Jewish Community Relations Council, Santa Barbara
Jewish Democratic Club of Marin
Jewish Democratic Club of Solano County
Jewish Democratic Coalition of the Bay Area
Jewish Democrats of San Diego County
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
Jewish Family and Community Services East Bay
Jewish Family and Community Services Long Beach and Orange County
Jewish Family Services of Silicon Valley
Jewish Family Service LA
Jewish Federation of the Greater San Gabriel and Pomona Valleys
Jewish Federation of Greater Santa Barbara
Jewish Federation of the Sacramento Region
Jewish Federation Los Angeles
Jewish Free Loan Association
Jewish Long Beach
Jewish Public Affairs Committee of California
Jewish Silicon Valley
JVS SoCal
Progressive Zionists of California

Public School Defenders Hub Coalition
Raoul Wallenberg Jewish Democratic Club
30 Years After

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: AB 2047 (Mike Fong, 2024) requires the California Community Colleges, California State University and University of California to establish a systemwide Office of Civil Rights and establish the position of systemwide Title IX coordinator. AB 2047 is pending in the Assembly Higher Education Committee.

Prior Legislation: None known.

PRIOR VOTES:

Senate Education Committee (Ayes 7, Noes 0)
