



## Alerts & Articles

### **Willful Defiance Suspensions Ban Expanded to Include Grades 4-8 Students In Favor of Restorative Justice Alternatives**

09.12.2019

Senate Bill 419 (“SB 419”), signed by Governor Newsom on Monday, September 9<sup>th</sup>, will prohibit public schools – both traditional and charter – from suspending 4th through 8th grade students for class disruption and willful defiance starting on July 1, 2020. Suspension of

#### **ATTORNEYS**



Davina F. Harden  
Partner  
[dharden@aalrr.com](mailto:dharden@aalrr.com)  
628-234-6200



Scott K. Holbrook  
Partner  
[sholbrook@aalrr.com](mailto:sholbrook@aalrr.com)  
916-923-1200

students in kindergarten through 3<sup>rd</sup> grade on this basis is already prohibited. The bill amended Education Code section 48900 and added section 48901.1

Opting instead for more research-based and holistic, positive alternatives to discipline, the Legislature encourages school administrators and teachers to consider alternatives to suspension to help students by keeping them at school and in the classroom and avoiding the creation of a school-to-prison-pipeline. SB 419 specifies that “it is the intent of the Legislature to provide teachers and school administrators with the means to foster safe and supportive learning environments for all children in California.”

The new legislation follows similar bans enacted at several school districts throughout California in recent years, marking a decisive step back from the harsh “zero tolerance” discipline policies that took hold decades ago. Under the new law, beginning on July 1, 2020, students enrolled in grades 4 through 8 can no longer be suspended for disrupting school activities or otherwise willfully defying school personnel engaged in the performance of their duties. Please note, however, that the Legislature built in a July 1, 2025, sunset provision for the ban as applied to 6th through 8th grade students and, as such, is expected to



Gabriel A. Sandoval

Partner

[gsandoval@aalrr.com](mailto:gsandoval@aalrr.com)

626-583-8600

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revisit the issue with regard to middle-schoolers before that date.

Once effective on July 1, 2020, administrators and teachers could still remove disruptive students from class (though not suspend them from school), but they are encouraged to opt instead for restorative justice practices and related alternatives to discipline, including the use of research-based frameworks with strategies that improve behavioral and academic outcomes. School officials are also encouraged to use a Multi-Tiered System of Supports, such as trauma-informed practices, social and emotional learning, and positive behavior interventions and support. The Legislature's goal is to use such alternatives to help provide students with support to transform any trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

The so-called "willful defiance" basis for suspension has been criticized as counterproductive to student achievement and equity, as some view it as being arbitrary and often unfairly applied to students of color and students with disabilities. Some critics of the ban criticize the one-size-fits-all disciplinary approach.

Existing law allows administrators and teachers to exercise their discretion in removing students from class for disrupting school activities and willful defiance. Willful defiance suspensions were already on the decline prior to the enactment of this legislation – accounting for more than 50 percent of all suspensions at its peak, and only 16 percent in 2018.<sup>[1]</sup> SB 419, however, will require school administrators and teachers to further focus on and expand restorative practices and implement systems and approaches for responding to disciplinary disruptions at school. It will be important for schools, districts, and county offices of education to plan for this change and implement additional alternative practices in advance of the effective date of the change. Our office can provide counsel and assistance regarding compliance with the new ban on willful defiance suspensions and implementation of alternative disciplinary measures. Please contact one of the authors of this alert for further information or advice.

[1]EdSource citing CDE data titled “2017-18 Suspension Rate” at [CDE](#)

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