

Senate Bill No. 509

Passed the Senate September 13, 2023

Secretary of the Senate

Passed the Assembly September 11, 2023

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2023, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 49428.15 and 51210 of, and to add Section 49428.3 to, the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 509, Portantino. School employee and pupil training: youth mental and behavioral health: mental health education.

(1) Existing law, subject to an appropriation, requires the State Department of Education to recommend best practices and identify training programs for use by local educational agencies that serve pupils in any of grades 7 to 12, inclusive, to address youth behavioral health, on or before January 1, 2023, as provided. Existing law requires the department to ensure that each identified training program, among other requirements, provides instruction on recognizing the signs and symptoms of youth behavioral health disorders, including common psychiatric conditions and substance use disorders.

This bill would delete the term “common” and replace “use” with “abuse” for purposes of that instruction requirement. The bill would, subject to an appropriation, require the department to, on or before January 1, 2025, recommend best practices and identify training programs for use by local educational agencies serving pupils in kindergarten or any of grades 1 to 6, inclusive, to address youth behavioral health for those pupils, as provided. The bill would require, on or before July 1, 2027, local educational agencies serving pupils in any of grades 7 to 12, inclusive, to certify to the department that 40% of its classified employees and 100% of its certificated employees, who serve and have direct contact with pupils in any of grades 7 to 12, inclusive, at school, have received the above-described youth behavioral health training, as specified. The bill would prohibit the training in youth behavioral health to be a condition of employment or hiring. By imposing training certification duties on local educational agencies, the bill would impose a state-mandated local program.

(2) Existing law requires the adopted course of study for grades 1 to 6, inclusive, to include certain areas of study, including, among others, English, mathematics, social sciences, science, visual and

performing arts, and health, as specified. With respect to the study of health, existing law requires instruction in the principles and practices of individual, family, and community health.

This bill would require that health area of study for grades 1 to 6, inclusive, to also include instruction on mental health. To the extent that this requirement would impose new duties on local educational agencies, it would constitute a state-mandated local program.

(3) This bill would incorporate additional changes to Section 51210 of the Education Code proposed by AB 285 and AB 446 to be operative only if this bill and either or both of those bills are enacted and this bill is enacted last.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Mental health is critical to overall health, well-being, and academic success.

(2) Mental health challenges affect all age groups, races, ethnicities, and socioeconomic classes.

(3) Millions of Californians, including at least one in five youths, live with mental health challenges. Millions more are affected by the mental health challenges of someone else, such as a close friend or family member.

(4) Mental health education is one of the best ways to increase awareness and the seeking of help, while reducing the stigma associated with mental health challenges. The public education system is the most efficient and effective setting for providing this education to all youth.

(b) For the foregoing reasons, it is the intent of the Legislature in enacting this measure to ensure that all California pupils in

grades 1 to 12, inclusive, have the opportunity to benefit from a comprehensive mental health education.

SEC. 2. Section 49428.15 of the Education Code is amended to read:

49428.15. (a) For purposes of this section, except as otherwise specified, the following definitions apply:

(1) “Evidence-based” means peer-reviewed, scientific research evidence, including studies based on research methodologies that control threats to both the internal and the external validity of the research findings.

(2) “Evidence-informed” means using research that is already available and has been tested for efficacy and effectiveness. This evidence is then combined with the experiences and expertise of the training program developers to best fit the population intended to be served.

(3) “Local educational agency” means a county office of education, school district, state special school, or charter school that serves pupils in any of grades 7 to 12, inclusive.

(4) “Youth behavioral health disorders” means pupil mental health and substance use disorders.

(5) “Youth behavioral health training” means training addressing the signs and symptoms of a pupil mental health or substance use disorder.

(b) The department shall, on or before January 1, 2023, recommend best practices, and identify evidence-based and evidence-informed training programs for schools to address youth behavioral health, including, but not necessarily limited to, staff and pupil training.

(c) In identifying one or more evidence-based or evidence-informed youth behavioral health training programs for use by local educational agencies to train school staff or pupils pursuant to subdivision (b), the department shall ensure that each training program meets all of the following requirements:

(1) Provides instruction on recognizing the signs and symptoms of youth behavioral health disorders, including psychiatric conditions and substance abuse disorders such as opioid and alcohol abuse.

(2) Provides instruction on how school staff can best provide referrals to youth behavioral health services or other support to

individuals in the early stages of developing a youth behavioral health disorder.

(3) Provides instruction on how to maintain pupil privacy and confidentiality in a manner consistent with federal and state privacy laws.

(4) Provides instruction on the safe deescalation of crisis situations involving individuals with a youth behavioral health disorder.

(5) Is capable of assessing trainee knowledge before and after training is provided in order to measure training outcomes.

(6) Is administered by a nationally recognized training authority in youth behavioral health disorders or by a local educational agency.

(7) (A) Includes in-person and virtual training with certified instructors who can recommend resources available in the community for individuals with a youth behavioral health disorder.

(B) For purposes of this paragraph, “certified instructors” means individuals who obtain or have obtained a certification to provide the selected youth behavioral health training.

(d) (1) The department shall, on or before January 1, 2025, recommend best practices, and identify evidence-based and evidence-informed training programs for schools to address youth behavioral health, including, but not necessarily limited to, staff and pupil training, for pupils in kindergarten or any of grades 1 to 6, inclusive.

(2) In identifying one or more evidence-based or evidence-informed youth behavioral health training programs for use by local educational agencies to train school staff or pupils pursuant to subdivision (b), the department shall ensure that each training program meets all of the requirements of subdivision (c) of this section, as applicable to training programs to address youth behavioral health for pupils in kindergarten and grades 1 to 6, inclusive.

(3) For purposes of this subdivision, “local educational agency” means a county office of education, school district, state special school, or charter school that serves pupils in kindergarten or any of grades 1 to 6, inclusive.

(e) This section shall be implemented only to the extent that an appropriation is made in the annual Budget Act or another statute for these purposes.

SEC. 3. Section 49428.3 is added to the Education Code, to read:

49428.3. (a) For purposes of this section, the following definitions apply:

(1) “Evidence-based” means peer-reviewed, scientific research evidence, including studies based on research methodologies that control threats to both the internal and the external validity of the research findings.

(2) “Evidence-informed” means using research that is already available and has been tested for efficacy and effectiveness. This evidence is then combined with the experiences and expertise of the training program developers to best fit the population intended to be served.

(3) “Local educational agency” means a county office of education, school district, state special school, or charter school that serves pupils in any of grades 7 to 12, inclusive.

(4) “Youth behavioral health disorders” means pupil mental health and substance use disorders.

(5) “Youth behavioral health training” means training addressing the signs and symptoms of a pupil mental health or substance use disorder.

(b) Subject to subdivision (c), on or before July 1, 2027, a local educational agency shall certify to the department that 100 percent of its certificated employees and 40 percent of its classified staff, who have direct contact with pupils in any of grades 7 to 12, have received the youth behavioral health training described in subdivision (c) of Section 49428.15, in accordance with all of the following:

(1) Except as provided in paragraph (2), the youth behavioral health training is provided to classified and certificated employees during regularly scheduled work hours.

(2) If a classified or certificated employee receives the youth behavioral health training in a manner other than through an in-service training program provided by the local educational agency, the employee may present a certificate of successful completion of the training to the local educational agency for purposes of satisfying the requirements of this subdivision.

(3) The youth behavioral health training shall not be a condition of employment or hiring for classified or certificated employees.

(c) A local educational agency may exclude a licensed mental health professional who holds a pupil personnel services credential from the youth behavioral health training required by this section.

(d) Notwithstanding paragraph (6) of subdivision (c) of Section 49428.15, a local educational agency may meet the requirements of this section by having a school employee of the local educational agency who holds a pupil personnel services credential provide the youth behavioral health training to the school employees of the local educational agency, if the training program is identified by the department on a list pursuant to subdivision (c) of Section 49428.15. School employees who provide the youth behavioral health training to other school employees are required to complete any training requirements necessary, as established by the training program identified, to provide training to other school employees.

SEC. 4. Section 51210 of the Education Code is amended to read:

51210. (a) The adopted course of study for grades 1 to 6, inclusive, shall include instruction, beginning in grade 1 and continuing through grade 6, in the following areas of study:

(1) English, including knowledge of, and appreciation for literature and the language, as well as the skills of speaking, reading, listening, spelling, handwriting, and composition.

(2) Mathematics, including concepts, operational skills, and problem solving.

(3) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; the development of the American economic system, including the role of the entrepreneur and labor; the relations of persons to their human and natural environment; eastern and western cultures and civilizations; contemporary issues; and the wise use of natural resources.

(4) Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry and on the place of humans in ecological systems.

(5) Visual and performing arts, including instruction in the subjects of dance, music, theatre, and visual arts, aimed at the

development of aesthetic appreciation and the skills of creative expression.

(6) Health, including instruction in the principles and practices of individual, family, and community health, and including instruction on mental health.

(7) Physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period.

(8) Other studies that may be prescribed by the governing board.

(b) (1) A complaint that a school district or county superintendent of schools has not complied with the instructional minute requirements of paragraph (7) of subdivision (a) may be filed with a school district or county superintendent of schools pursuant to the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(2) A complainant not satisfied with the decision of a school district or county superintendent of schools may appeal the decision to the department pursuant to Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations and shall receive a written appeal decision within 60 days of the department's receipt of the appeal.

(3) If a school district or county superintendent of schools finds merit in a complaint, or the Superintendent finds merit in an appeal, the school district or county superintendent of schools shall provide a remedy to all affected pupils, parents, and guardians.

(c) The Legislature finds and declares that neither the original provisions of this section, nor any subsequent amendments to it, were intended to create a private right of action. However, nothing in this subdivision shall restrict or expand the existing right of any party to seek relief from noncompliance with this section pursuant to a writ of mandate.

SEC. 4.1. Section 51210 of the Education Code is amended to read:

51210. (a) The adopted course of study for grades 1 to 6, inclusive, shall include instruction, beginning in grade 1 and continuing through grade 6, in the following areas of study:

(1) English, including knowledge of, and appreciation for, literature and the language, as well as the skills of speaking, reading, listening, spelling, handwriting, and composition.

(2) Mathematics, including concepts, operational skills, and problem solving.

(3) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; the development of the American economic system, including the role of the entrepreneur and labor; the relations of persons to their human and natural environment; eastern and western cultures and civilizations; contemporary issues; and the wise use of natural resources.

(4) Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry, on the place of humans in ecological systems, on the causes and effects of climate change, and on the methods to mitigate and adapt to climate change. Appropriate coursework including material on the causes and effects of climate change and methods to mitigate and adapt to climate change shall be offered to pupils as soon as possible, commencing no later than the 2024–25 school year.

(5) Visual and performing arts, including instruction in the subjects of dance, music, theater, and visual arts, aimed at the development of aesthetic appreciation and the skills of creative expression.

(6) Health, including instruction in the principles and practices of individual, family, and community health, and including instruction on mental health.

(7) Physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 schooldays, excluding recesses and the lunch period.

(8) Other studies that the governing board may prescribe.

(b) (1) A complaint that a school district or county superintendent of schools has not complied with the instructional minute requirements of paragraph (7) of subdivision (a) may be filed with a school district or county superintendent of schools

pursuant to the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(2) A complainant not satisfied with the decision of a school district or county superintendent of schools may appeal the decision to the department pursuant to Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations and shall receive a written appeal decision within 60 days of the department's receipt of the appeal.

(3) If a school district or county superintendent of schools finds merit in a complaint, or the Superintendent finds merit in an appeal, the school district or county superintendent of schools shall provide a remedy to all affected pupils, parents, and guardians.

(c) The Legislature finds and declares that neither the original provisions of this section, nor any subsequent amendments to it, were intended to create a private right of action. However, nothing in this subdivision shall restrict or expand the existing right of any party to seek relief from noncompliance with this section pursuant to a writ of mandate.

SEC. 4.2. Section 51210 of the Education Code is amended to read:

51210. (a) The adopted course of study for grades 1 to 6, inclusive, shall include instruction, beginning in grade 1 and continuing through grade 6, in the following areas of study:

(1) English, including knowledge of, and appreciation for, literature and the language, as well as the skills of speaking, reading, listening, spelling, handwriting, including instruction in cursive or joined italics in the appropriate grade levels, and composition.

(2) Mathematics, including concepts, operational skills, and problem solving.

(3) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; the development of the American economic system, including the role of the entrepreneur and labor; the relations of persons to their human and natural environment;

eastern and western cultures and civilizations; contemporary issues; and the wise use of natural resources.

(4) Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry and on the place of humans in ecological systems.

(5) Visual and performing arts, including instruction in the subjects of dance, music, theater, and visual arts, aimed at the development of aesthetic appreciation and the skills of creative expression.

(6) Health, including instruction in the principles and practices of individual, family, and community health, and including instruction on mental health.

(7) Physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 schooldays, excluding recesses and the lunch period.

(8) Other studies that the governing board may prescribe.

(b) (1) A complaint that a school district or county superintendent of schools has not complied with the instructional minute requirements of paragraph (7) of subdivision (a) may be filed with a school district or county superintendent of schools pursuant to the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(2) A complainant not satisfied with the decision of a school district or county superintendent of schools may appeal the decision to the department pursuant to Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations and shall receive a written appeal decision within 60 days of the department's receipt of the appeal.

(3) If a school district or county superintendent of schools finds merit in a complaint, or the Superintendent finds merit in an appeal, the school district or county superintendent of schools shall provide a remedy to all affected pupils, parents, and guardians.

(c) The Legislature finds and declares that neither the original provisions of this section, nor any subsequent amendments to it, were intended to create a private right of action. However, nothing in this subdivision shall restrict or expand the existing right of any

party to seek relief from noncompliance with this section pursuant to a writ of mandate.

SEC. 4.3. Section 51210 of the Education Code is amended to read:

51210. (a) The adopted course of study for grades 1 to 6, inclusive, shall include instruction, beginning in grade 1 and continuing through grade 6, in the following areas of study:

(1) English, including knowledge of, and appreciation for, literature and the language, as well as the skills of speaking, reading, listening, spelling, handwriting, including instruction in cursive or joined italics in the appropriate grade levels, and composition.

(2) Mathematics, including concepts, operational skills, and problem solving.

(3) Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; the development of the American economic system, including the role of the entrepreneur and labor; the relations of persons to their human and natural environment; eastern and western cultures and civilizations; contemporary issues; and the wise use of natural resources.

(4) Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry, on the place of humans in ecological systems, on the causes and effects of climate change, and on the methods to mitigate and adapt to climate change. Appropriate coursework including material on the causes and effects of climate change and methods to mitigate and adapt to climate change shall be offered to pupils as soon as possible, commencing no later than the 2024–25 school year.

(5) Visual and performing arts, including instruction in the subjects of dance, music, theater, and visual arts, aimed at the development of aesthetic appreciation and the skills of creative expression.

(6) Health, including instruction in the principles and practices of individual, family, and community health, and including instruction on mental health.

(7) Physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 schooldays, excluding recesses and the lunch period.

(8) Other studies that the governing board may prescribe.

(b) (1) A complaint that a school district or county superintendent of schools has not complied with the instructional minute requirements of paragraph (7) of subdivision (a) may be filed with a school district or county superintendent of schools pursuant to the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(2) A complainant not satisfied with the decision of a school district or county superintendent of schools may appeal the decision to the department pursuant to Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations and shall receive a written appeal decision within 60 days of the department's receipt of the appeal.

(3) If a school district or county superintendent of schools finds merit in a complaint, or the Superintendent finds merit in an appeal, the school district or county superintendent of schools shall provide a remedy to all affected pupils, parents, and guardians.

(c) The Legislature finds and declares that neither the original provisions of this section, nor any subsequent amendments to it, were intended to create a private right of action. However, nothing in this subdivision shall restrict or expand the existing right of any party to seek relief from noncompliance with this section pursuant to a writ of mandate.

SEC. 5. (a) Section 4.1 of this bill incorporates amendments to Section 51210 of the Education Code proposed by both this bill and Assembly Bill 285. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 51210 of the Education Code, (3) Assembly Bill 446 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 285, in which case Sections 4, 4.2, and 4.3 of this bill shall not become operative.

(b) Section 4.2 of this bill incorporates amendments to Section 51210 of the Education Code proposed by both this bill and

Assembly Bill 446. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 51210 of the Education Code, (3) Assembly Bill 285 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 446, in which case Sections 4, 4.1, and 4.3 of this bill shall not become operative.

(c) Section 4.3 of this bill incorporates amendments to Section 51210 of the Education Code proposed by this bill, Assembly Bill 285, and Assembly Bill 446. That section of this bill shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 2024, (2) all three bills amend Section 51210 of the Education Code, and (3) this bill is enacted after Assembly Bill 285 and Assembly Bill 446, in which case Sections 4, 4.1, and 4.2 of this bill shall not become operative.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2023

Governor