

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

AB 810 (Friedman)  
Version: June 3, 2024  
Hearing Date: June 18, 2024  
Fiscal: Yes  
Urgency: No  
ME

**SUBJECT**

Postsecondary education: hiring practices: academic, athletic, and administrative appointments

**DIGEST**

This bill strengthens the law to prevent sexual harassers from being hired by California colleges and universities.

**EXECUTIVE SUMMARY**

SB 791 (McGuire, Ch. 415, Stats. 2023) passed this Committee last year and was signed into law. Accordingly, existing law now requires the governing board of a community college district and the CSU Trustees, and requests the UC Regents, to require an applicant for appointment to an academic or administrative position to disclose any final administrative or judicial decision issued within the last seven years from the date of submission of the application determining that the applicant committed sexual harassment. SB 791 was authored to address the issue of state college employees being able to move from one college to another even though they had been found to be sexual harassers.

The bill currently before this Committee applies the disclosure law to applicants for athletic positions on these college campuses. Additionally, the bill requests independent higher education institutions to also require an applicant for appointment to an academic, administrative, or athletic position to disclose any final administrative or judicial decision issued within the last seven years where it was determined that the applicant committed sexual harassment. Finally, the bill also requests the Regents of the University of California and the governing boards or bodies of independent institutions of higher education that receive state financial assistance, and requires the Trustees of the California State University and the governing boards of community college districts, as part of the hiring process for an appointment to an academic, athletic, or administrative position, to have an applicant sign a release form that authorizes, in the event the applicant reaches the final stages of the application process, the release of information by the applicant's previous employers concerning any substantiated

allegations of misconduct, and requires the signed release form to be used by the postsecondary educational institution to engage in a reasonable attempt to obtain that information. These new provisions will further ensure that sexual harassers are not hired at our California college campuses. AB 810 is sponsored by Generation Up, Inc., supported by Cal State Student Association, California Faculty Association, California State University Employees Union, Consumer Attorneys of California, Lieutenant Governor Eleni Kounalakis, Faculty Association of California Community Colleges, and CFT AFT, AFL,-CIO. It is opposed by Stop Abuse for Everyone. AB 810 passed the Senate Education Committee with a vote of 7 to 0.

### **PROPOSED CHANGES TO THE LAW**

Existing federal law:

- 1) Provides that, in part, "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance." Enforcement of compliance is initiated upon the filing of a complaint alleging a violation of Title IX. (Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act)
- 2) Requires each school district and county office of education, or a local public or private agency that receives funding from the state or federal government, to designate a person to serve as the Title IX compliance coordinator to enforce compliance at the local level, including coordinating any complaints of non-compliance. (Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act)

Existing state law:

- 1) Requires the governing board of a community college district and the CSU Trustees, and requests the UC Regents, to require an application for appointment to an academic or administrative position to disclose any final administrative or judicial decision issued within the last seven years from the date of submission of the application determining that the applicant committed sexual harassment. (Educ. Code §§ 87604.5 (a)(1), 89521 (a)(1), 92612.1 (a)(1).)
- 2) Requires that applicants be permitted to disclose if they have filed an appeal with the previous employer, or, if applicable, with the United States Department of Education. (Educ. Code §§ 87604.5 (a)(2), 89521 (a)(2), 92612.1 (a)(2).)
- 3) Prohibits a community college district and the CSU Trustees, and requests the UC Regents, from asking an applicant to disclose, orally or in writing, information concerning any final administrative decision or final judicial decision, including any inquiry about an applicable decision on any employment application, until the

community college district, Trustees, or Regents have determined that the applicant meets the minimum employment qualifications stated in the notice issued for the position. (Educ. Code §§ 87604.5 (b), 89521 (b), 92612.1 (b).)

- 4) Requires each educational institution in California (K-12 and postsecondary education) to have a written policy on sexual harassment, and requires schools to display the policy in a prominent location in the main administrative building or other area of the campus or schoolsite, be provided as part of any orientation program for new students, provided to each faculty member, administrative staff and support staff, and appear in any publication of the school that sets forth the rules, regulations, procedures, and standards of conduct. (Educ. Code §§ 231.5, 66281.5.)
- 5) Requires the Trustees of the CSU to provide for, by rule, for the government of their appointees and employees, including but not limited to: appointment; classification; terms; duties; pay and overtime pay; uniform and equipment allowances; travel expenses and allowances; rates for housing and lodging; moving expenses; leave of absence; tenure; vacation; holidays; layoff; dismissal; demotion; suspension; sick leave; reinstatement; and employer's contribution to employees', annuitants', and survivors' health benefits plans. (Educ. Code § 89500.)
- 6) Requires a community college district, prior to making a decision relating to the continued employment of a contract employee, to meet certain requirements, including an evaluation of the employee and the governing board's receipt of recommendations of the superintendent or president of the district or community college. (Educ. Code § 87607.)
- 7) Defines the following terms:
  - a) "Final administrative decision" the written determination of whether or not sexual harassment occurred as determined by the decision-maker following the final investigative report and the subsequent hearing. (Educ. Code §§ 87604.5 (c)(1), 89521 (c)(1), 92612.1 (c)(1).)
  - b) "Final judicial decision" means a final determination of a matter submitted to a court that is recorded in a judgment or order of that court. (Educ. Code §§ 87604.5 (c)(2), 89521 (c)(2), 92612.1 (c)(2).)
  - c) "Sexual harassment" has the same meaning as the existing definition in the Education Code or, if applicable, as the existing definition in federal regulations. (Educ. Code §§ 87604.5 (c)(3), 89521 (c)(3), 92612.1 (c)(3).)
  - d) "Postsecondary educational institution" as any campus of the UC, CSU, CCC, an independent institution of higher education, or a private postsecondary educational institution. (Educ. Code § 67456)

- e) "Independent institution of higher education" as nonpublic higher education institutions that grant undergraduate degrees, graduate degrees, or both, and that are formed as nonprofit corporations in this state and are accredited by an agency recognized by the United States Department of Education. (Educ. Code § 66010)

This bill:

- 1) Extends the disclosure requirements in Education Code sections 87604.5 (a)(1) and 89521 (a)(1) to athletic positions and therefore requires an applicant for an athletic position, as part of the hiring process, to disclose any final administrative decision or final judicial decision issued within the last seven years from the date of submission of the application determining that the applicant committed sexual harassment.
- 2) Requests the governing board or body of an independent institution of higher education, that receives state financial assistance, as part of the hiring process for an appointment to an academic, athletic, or administrative position with that independent institution of higher education, to: require an applicant to disclose any final administrative decision or final judicial decision issued within the last seven years from the date of submission of the application determining that the applicant committed sexual harassment; and permit applicants to disclose if they have filed an appeal with the previous employer or, if applicable, with the United States Department of Education.
- 3) Requests independent institutions of higher education that receive state financial assistance to not ask an applicant to disclose, orally or in writing, information concerning any final administrative decision or final judicial decision described in 2) above, including any inquiry about an applicable decision on any employment application, until the institution has determined that the applicant meets the minimum employment qualifications stated in the notice issued for the position.
- 4) Requests the governing board or body of an independent institution of higher education that receives state financial assistance, as part of the hiring process for an appointment to an academic, athletic, or administrative position with that independent institution of higher education, to: require an applicant to sign a release form that authorizes, in the event the applicant reaches the final stages of the application process, the release of information by the applicant's previous employers to the independent institution of higher education concerning any substantiated allegations of misconduct in order to permit the institution to evaluate the released information with respect to the criteria for a potential job placement; and if an applicant reaches the final stages of the application process for the intended academic, athletic, or administrative position, require the independent institution of higher education to use the release form to engage in a reasonable

attempt to obtain information from the previous employer concerning any substantiated allegations of misconduct.

- 5) Provides that the governing board of a community college district and the trustees of the CSU, as part of the hiring process for an appointment to an academic, athletic, or administrative position with that community college district or CSU, must require an applicant to sign a release form that authorizes, in the event the applicant reaches the final stages of the application process, the release of information by the applicant's previous employers to the community college district or CSU concerning any substantiated allegations of misconduct in order to permit the community college district or CSU to evaluate the released information with respect to the criteria for a potential job placement.
- 6) Provides that if the applicant reaches the final stages of the application process for the intended academic, athletic, or administrative position, the community college district and CSU campuses are required to use the release form signed pursuant to paragraph 5) to engage in a reasonable attempt to obtain information from the previous employer concerning any substantiated allegations of misconduct.
- 7) Provides that the regents of the University of California are requested to, as part of the hiring process for an appointment to an academic, athletic, or administrative position with that University of California, require an applicant to sign a release form that authorizes, in the event the applicant reaches the final stages of the application process, the release of information by the applicant's previous employers to the UC concerning any substantiated allegations of misconduct in order to permit the UC to evaluate the released information with respect to the criteria for a potential job placement.
- 8) Provides that if the applicant reaches the final stages of the application process for the intended academic, athletic, or administrative position, the campuses of the University of California are required to use the release form signed pursuant to the above paragraph to engage in a reasonable attempt to obtain information from the previous employer concerning any substantiated allegations of misconduct.
- 9) Defines the following terms:
  - a) "Applicant" means a person who submits an employment application for an academic, athletic, or administrative position, but does not include a person who is a current employee and is hired or rehired for a different position with the same employer.
  - b) "Misconduct" means any violation of the policies governing employee conduct at the applicant's previous place of employment, including, but not limited to, violations of policies prohibiting sexual harassment, sexual assault, or other forms of harassment or discrimination, as defined by the employer.
  - c) "Substantiated allegation" means an allegation that has been sustained based upon a burden of proof of at least, a preponderance of the evidence.

- 10) Expresses, among other things, that it is the intent of the Legislature to enact policies that will prevent a common issue across institutions of higher education known as “passing the harasser.”

## COMMENTS

### 1. Author statement

According to the author:

AB 810 is a measure that will add an extra guardrail in the employment processes for academic, athletic, and administrative positions at postsecondary education institutions in California. AB 810 builds upon the work of SB 791 (McGuire) by expanding the disclosure requirements to athletic positions and provides an additional reference check requirement of postsecondary education institutions to ensure applicants do not have a history of disciplinary violations at their previous places of employment. This bill intends to give higher education institutions another tool to keep college campuses equally accessible and safe for all. This measure seeks to add a layer of transparency to ensure that higher education institutions are conducting due diligence when it comes to hiring potential employees or agreeing to volunteer.

### 2. Ensuring full information regarding previous sexual harassment decisions when considering hiring candidates at California colleges and universities

This Committee has noted in previous analyses that sexual harassment and abuse are systemic issues across our higher education systems.<sup>1</sup> Reports show how despite Title IX and other sexual harassment protections and requirements in the law, perpetrators who have been found guilty of abuse escape consequences by moving from one college to the next.<sup>2</sup> In 2016 the California State Senate passed SB 1439 (Block) which was

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<sup>1</sup> See Senate Committee on Judiciary Analyses of SB 791 (McGuire, Ch. 415, Stats. 2023) and SB 1439 (Block, 2016).

<sup>2</sup> See: *Fresno State president mishandled sexual harassment complaints. Now he leads all 23 Cal State colleges* by Kenny Jacoby, USA Today, Published Feb. 3, 2022 and updated Jan. 25, 2023, available at <https://www.usatoday.com/in-depth/news/investigations/2022/02/03/cal-state-chancellor-joseph-castro-mishandled-sexual-harassment-fresno-state-title-ix-frank-lamas/9109414002/> [as of 4/1/23.]; *New batch of CSU records shows professors disciplined for sexual harassment: Records show students suffered sexual advances from professors*, EdSource (August 2, 2022) by Thomas Peele, Ashley A. Smith, and Daniel J. Willis, available at: [New batch of CSU records shows professors disciplined for sexual harassment | EdSource](#) [as of April 9, 2023]; *Cal State agreed to keep sexual harassment findings against two professors under wraps*, by Alexis Timko (7/26/2022), Los Angeles Times, available at: [Cal State agreed to keep sexual harassment findings against two professors under wraps - Los Angeles Times \(latimes.com\)](#) [as of June 6, 2024]; *Former CSU baseball coach sexually and racially harassed players and staff, investigation found, Hawkins now assistant principal and athletic director at Plumas County high school*, by Thomas Peele, Ashley A. Smith, and Daniel J. Willis (9/8/22), EdSource, available at [Former CSU baseball coach sexually and racially harassed players and staff, investigation found | EdSource](#) [as of June 6, 2024].

introduced after reports shed light on professors and instructors who avoided the consequences of their sexual harassment by moving from one campus to another without needing to disclose their misconduct. The author wanted the information regarding their sexual harassment to be considered when hiring decisions were made. The bill was vetoed by Governor Brown, yet the problem persisted for years.

SB 791 was introduced in 2023 in response to more reports of sexual harassment occurring at public colleges and universities and the revelations that professors who had been found to have perpetrated sexual harassment at college campuses were subsequently employed at other college campuses. SB 791 was substantially similar to SB 1439 and was signed into law last year. SB 791 requires the governing board of a community college district and the trustees of the CSU to require, as part of the hiring process for an appointment to an academic or administrative position, that the applicant disclose any final administrative decision or final judicial decision determining that the applicant committed sexual harassment. The bill also requested the UC Regents to require, as part of the hiring process for an appointment to an academic or administrative position with the University of California, that the applicant disclose any final administrative decision or final judicial decision determining that the applicant committed sexual harassment.

The bill currently before this Committee, AB 810, further strengthens the law to stop sexual harassers from moving from campus to campus, a practice referred to as “passing the harasser.” AB 810 expands the job applicants who must disclose final administrative decisions and final judicial decisions regarding sexual harassment to include athletic employee applicants. AB 810 also applies the disclosure requirements to independent institutions of higher education in the same way it is applied to the University of California. Additionally, the bill requests the Regents of the University of California and the governing boards or bodies of independent institutions of higher education that receive state financial assistance, and requires the Trustees of the California State University and the governing boards of community college districts, as part of the hiring process for an appointment to an academic, athletic, or administrative position, to have an applicant sign a release form that authorizes, in the event the applicant reaches the final stages of the application process, the release of information by the applicant’s previous employers concerning any substantiated allegations of misconduct, and requires the signed release form to be used by the postsecondary educational institution to engage in a reasonable attempt to obtain that information.

As specified in the 2024 Assembly Higher Education Committee report, *A Call to Action: How Postsecondary Education Institutions Can Address Sex Discrimination and Provide Educational Justice on Campus*, the provisions of this bill align with the report’s 10<sup>th</sup> recommendation. The report encourages the Legislature to “require the institutions to conduct employment verification checks to determine if the applicant for an athletic,

academic, or administrative position has any substantiated allegations of misconduct from their previous employer.<sup>3</sup>”

### 3. Support

The California Faculty Association writes the following in support of the bill:

Ensuring the integrity and safety of our athletic departments and student athletes is paramount to our mission, and we firmly believe that AB 810's provisions will significantly contribute to achieving this goal. By requiring institutions to determine if applicants have violated any of their former employer's policies, this bill reinforces accountability in our hiring processes and helps protect our community from potential risks.

Moreover, this bill aligns with our commitment to transparency and responsible hiring practices. It is crucial to thoroughly evaluate potential hires and volunteers not only based on their skills and qualifications but also on their past conduct in similar roles. This not only promotes a safer environment for our students but also fosters a more ethical and responsible culture within our athletic departments.

The California State University Employees Union writes the following in support of this bill:

Title IX policies at educational institutions exist to protect students, educators, and school employees against all forms of sex or gender discrimination, including sexual harassment, dating and domestic violence, and other forms of sexual misconduct. Despite this, recent audits and media outlets have shed light on serious incidents of sexual harassment and misconduct against students, faculty, and staff across our public colleges and universities, and how the perpetrators of said misconduct have escaped the consequences of their actions by simply moving from one campus to another.

This measure will ensure campuses are fully informed of any history of sexual misconduct when making hiring decisions. Students, faculty, and staff deserve to live, work, and learn in a safe environment and AB 810 will serve as a critical step toward rebuilding trust and fostering an environment of safety across all state campuses.

The Cal State Student Association writes the following in support of the bill:

On behalf of the Cal State Student Association (CSSA), representing nearly half a million students in the California State University (CSU) system, I write to

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<sup>3</sup> The report is available at: [https://ahed.assembly.ca.gov/system/files/2024-02/a-call-to-action-report-2024\\_0.pdf](https://ahed.assembly.ca.gov/system/files/2024-02/a-call-to-action-report-2024_0.pdf)



express our support for AB 810, introduced by Assemblymember Friedman. This bill addresses hiring practices and employment verification checks at postsecondary institutions.

We commend the efforts put forth in the Call to Action Report by the committee. The findings underscored significant shortcomings in addressing discrimination and inequitable treatment within the CSU system, which deeply concern us. It is evident that meaningful action is imperative to rectify these failures.

AB 810 presents an opportunity to enhance protections for the campus community by empowering campus human resource officers with additional tools to vet applicants. Specifically, the bill enables officers to engage with previous employers to investigate allegations of misconduct or sexual harassment. By doing so, AB 810 aims to prevent the recurrence of the troubling practice of "passing the harasser" and ensures that campuses are informed of substantiated allegations prior to making hiring decisions. Notably, this aligns with the 10<sup>th</sup> statewide recommendation outlined in the Call to Action report.

### **SUPPORT**

Generation Up, Inc. (sponsor)  
Cal State Student Association  
California Faculty Association  
California State University Employees Union  
CFT, AFT, AFL-CIO  
Consumer Attorneys of California  
Faculty Association of California Community Colleges  
Lieutenant Governor Eleni Kounalakis

### **OPPOSITION**

Stop Abuse for Everyone

### **RELATED LEGISLATION**

#### **Pending Legislation:**

SB 1166 (Dodd, 2024) expands the scope of a currently-required CSU report containing a summation of the activities undertaken by each campus and by the systemwide Title IX office to also include outcomes of appeals, a list of personnel who are exempt from being a "responsible employee," and a yet-to-be-developed annual report that compiles campus-based evaluations of how sex discrimination is addressed on campuses. Requests the UC and requires each community college district to also submit this report. SB 1166 is at the Assembly Desk.

SB 1491 (Eggman, 2024) requires the CSU Trustees and the governing board of each community college district, and requests the UC Regents, to designate an employee at

each of their respective campuses as a point of contact for the needs of lesbian, gay, bisexual, asexual, pansexual, transgender, gender-nonconforming, intersex and two-spirit faculty, staff, and students at the respective campus. The bill requires the point of contact to be a confidential employee, as specified; requires the CSU Trustees and the governing board of each community college district to adopt and publish policies on harassment, intimidation, and bullying and include these policies within the rules and regulations governing student behavior; and, requires California Student Aid Commission, beginning with the 2026-27 school year, to provide written notice to students who receive state financial aid whether their college or university has a religious school exemption from Title IX. SB 1491 is at the Assembly Desk.

AB 1790 (Connelly, 2024) requires the CSU to take specified actions to implement the recommendations provided by the State Auditor's report from 2022 titled "California State University: It Did Not Adequately or Consistently Address Some Allegations of Sexual Harassment." AB 1790 is pending in the Senate Education Committee.

AB 1905 (Addis, 2024) prohibits an employee of a public postsecondary educational institution from being eligible for retreat rights and from receiving a letter of recommendation if the employee is the respondent in a sexual harassment complaint where a final determination has been made or the employee resigned. AB 1905 is pending in the Senate Education Committee.

AB 2047 (Mike Fong, 2024) requires the CCC, CSU, and UC to establish a systemwide Office of Civil Rights and establish the position of systemwide Title IX coordinator. AB 2047 is pending referral in the Senate Rules Committee.

AB 2048 (Mike Fong, 2024) requires each campus of the CSU and UC, and each community college district, to establish, on or before July 1, 2026, a Title IX office in a private space for students and employees to disclose complaints of sex discrimination, including, but not limited to, sexual harassment; and, provides that the Title IX office is to be under the administration of a Title IX coordinator who is to be responsible for coordinating the campus' implementation and compliance with the systemwide nondiscrimination policies. AB 2048 is pending referral in the Senate Rules Committee.

AB 2326 (Alvarez, 2024) establishes which entities who are responsible for ensuring campus programs are free from discrimination and who has the authority to oversee and monitor compliance with state and federal laws; requires the chair of the CCC Board of Governors, the President of UC, and the Chancellor of CSU to present to the Legislature annually on the state of the system in preventing discrimination on campus; and, requires the systemwide governing boards to review the system's nondiscrimination policies and to update them if necessary. AB 2326 is pending in the Senate Education Committee.

AB 2407 (Hart, 2024) requires the State Auditor to conduct an audit every three years of the CCC, CSU, and UC regarding their respective handling and investigation of sexual

harassment complaints. AB 2407 is pending in the Senate Education Committee.

AB 2492 (Irwin, 2024) requires each public postsecondary education institution to establish specified positions and designate at least one person to fulfill each position, including a confidential student advocate, a confidential staff and faculty advocate, and a confidential respondent services coordinator. AB 2492 is pending referral in the Senate Rules Committee.

AB 2608 (Gabriel, 2024) expands currently required training for students on sexual violence and sexual harassment to include information regarding drug-facilitated sexual assault and information related to confidential support and care resources. AB 2608 is pending in the Senate Education Committee.

AB 2987 (Ortega, 2024) requires each campus of the CSU and CCCs, and requests each campus of the UC, to provide status updates on the outcomes of complaints of sex discrimination to complainants and respondents, to the extent permissible under state and federal law; and, requires/requests that notice of a disciplinary action to the respondent be provided to the respondent within three schooldays of a decision. AB 2987 is pending in the Senate Education Committee.

Prior Legislation:

SB 808 (Dodd, Ch. 417, Stats. 2023) required the California State University to annually submit a report to the Legislature related to sexual harassment reports, complaints, investigations, hearings, and appeals.

SB 791 (McGuire, Ch. 415, Stats. 2023) required the governing board of a community college district and the Trustees of the California State University, and requested the Regents of the University of California, to require an application for appointment to an academic or administrative position to disclose any final administrative or judicial decision issued within the last seven years determining that the applicant committed sexual harassment.

SB 1439 (Block, 2016) was nearly identical to SB 791 and vetoed by Governor Brown. In his veto message, Governor Brown wrote that while he understood “the desire to mitigate risk, governing boards—who are the fiduciaries of these institutions—should be responsible for setting hiring standards, including the disclosure of prior bad conduct.”

**PRIOR VOTES:**

Senate Education Committee (Ayes 7, Noes 0)

Assembly Floor (Ayes 76, Noes 0)

Assembly Appropriations Committee (Ayes 15, Noes 0)

Assembly Higher Education Committee (Ayes 10, Noes 0)

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