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Senator Thomas Umberg, Chair
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AB 1905 (Addis)
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ME

SUBJECT

Public postsecondary education: employment: settlements, informal resolutions, and
retreat rights

DIGEST

In an effort to better protect students and faculty from sexual harassment at public postsecondary educational institutions, this bill requires the institutions to adopt policies that are more protective of sexually harassed students and faculty, as specified, and limits the retreat rights of and the provision of letters of recommendations to employees accused of sexual harassment in specified circumstances.

EXECUTIVE SUMMARY

In response to numerous reports of California public postsecondary educational institutions creating an environment that protects perpetrators of sexual harassment to the detriment of student and employee survivors, various legislators have introduced legislation to force public postsecondary educational institutions to create an environment that better protects students and employees from being victimized by sexual harassment. AB 1905 is one of the bills designed to create a safer environment in California's public colleges and universities.

This bill prohibits an employee of a public postsecondary educational institution from being eligible for retreat rights and receiving a letter of recommendation if the employee is the respondent in a sexual harassment complaint filed with the institution and any of the following occur: the employee is determined in a final administrative decision to have committed sexual harassment; before a final administrative decision is made, the employee resigns from their current position; or the employee enters into a settlement with the public postsecondary educational institution. However, a public postsecondary educational institution may adopt a policy on employees' ineligibility for retreat rights that is more expansive than the provision described above. This bill also provides that in order to receive state financial assistance, as defined, the appropriate governing board or body of each public postsecondary educational institution shall adopt a written policy on settlements and informal resolutions of complaints of sexual

harassment in cases where the respondent is an employee of the institution that must, at a minimum, include, specified requirements. The requirements are that the campus chief executive officer must preliminarily approve all offers of sexual harassment settlements and informal resolutions and the governing board must approve offers of sexual harassment settlements that have been preliminarily approved by the campus chief executive officer. Additionally, a settlement, an informal resolution, or both, are prohibited from being offered or entered into if: a complainant of the sexual harassment complaint filed against an employee respondent is a student; an employee respondent is accused of committing sexual assault, sexual violence, or sexual battery; or the settlement or informal resolution includes a nondisclosure agreement.

AB 1905 is part of a package of bills that arise out of various new reports, an audit by the California State Auditor, and investigations by the Senate Education Committee and the Assembly Higher Education Committee. This bill is supported by Lieutenant Governor Eleni Kounalakis, California State University Employees Union, California Teachers Association, and CFT AFT, AFL-CIO. Opposition to this bill was received from Stop Abuse for Everyone, an organization that is opposed to a majority of the bill package but provided no specifics on why they are opposed to AB 1905. This bill passed out of the Senate Education Committee with a vote of 7 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides that 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 education program or activity receiving federal financial assistance. (Title IX of the Education Amendments of 1972 to the Civil Rights Act of 1964; 20 U.S.C. § 1681 (a).)
- 2) Specifies that it is the policy of the State of California, pursuant to Education Code Section 66251 that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institution of the state. (Educ. Code § 66281.5.)
- 3) Provides that is the policy of the State of California to afford all persons, regardless of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Penal Code, including immigration status, equal rights and opportunities in the postsecondary educational institutions of the state. (Educ. Code § 66251.)
- 4) Defines sexual harassment as having the same meaning as defined in Education Code Section 212.5 and specifies that sexual harassment includes sexual battery, sexual violence, and sexual exploitation. (Educ. Code § 66262.5.)

- 5) Defines sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature, made by someone from or in the work or educational setting, as specified. (Educ. Code § 212.5.)
- 6) 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 and § 66281.5.)
- 7) 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.)
- 8) The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act requires all higher education institutions that participate in federal student aid programs to prepare, publish, and distribute annual security reports disclosing specified campus crime statistics and campus security policies. Reportable crimes include homicides, sex offenses, robberies, aggravated assaults, domestic violence, dating violence, sexual assault, and stalking. (Title XX of U.S.C. § 1092.)

This bill:

- 1) Asserts that it is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institutions of the state.
- 2) Provides that an employee of a public postsecondary educational institution shall be ineligible for retreat rights and shall not receive a letter of recommendation if the employee is the respondent in a sexual harassment complaint filed with the institution and any of the following occur: the employee is determined in a final administrative decision to have committed sexual harassment; before a final administrative decision is made, the employee resigns from their current position; or the employee enters into a settlement with the public postsecondary educational institution.

- 3) Provides that 2), above, does not prohibit a public postsecondary educational institution from adopting a policy on employees' ineligibility for retreat rights that is more expansive than the provisions described in 2), provided that the provisions described in paragraph 2) are incorporated into the policy.
- 4) Provides that in order to receive state financial assistance, as defined, the appropriate governing board or body of each public postsecondary educational institution shall adopt a written policy on settlements and informal resolutions of complaints of sexual harassment in cases where the respondent is an employee of the institution.
- 5) Provides that the written policy described in 4), at a minimum, shall include:
 - a provision that requires the campus chief executive officer to preliminarily approve all offers of sexual harassment settlements and informal resolutions. The campus chief executive officer shall not delegate that responsibility to a designee;
 - a provision that requires the governing board of a community college district, CSU Trustees, UC Regents, or the Board of Directors of the College of the Law, San Francisco, as applicable, to approve offers of sexual harassment settlements that have been preliminarily approved by the campus chief executive officer pursuant to the above sentence; and
 - a provision that prohibits a settlement, an informal resolution, or both, from being offered or entered into if a complainant of the sexual harassment complaint filed against an employee respondent is a student; an employee respondent is accused of committing sexual assault, sexual violence, or sexual battery; or the settlement or informal resolution includes a nondisclosure agreement.
- 6) Defines the following:
 - a) "Chief executive officer" means the president of a community college campus or a California State University campus, the chancellor of a University of California campus, or the dean of the College of the Law, San Francisco.
 - b) "Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.
 - c) "Final administrative decision" means the written determination of whether or not sexual harassment occurred as determined by the decisionmaker following the final investigative report and the hearing, if a hearing is required by Title IX of the federal Education Amendments of 1972 (20 U.S.C. Sec. 1681(a)(3)) or is required by the public postsecondary educational institution's written policy on sexual harassment.
 - d) "Informal resolution" means an agreement between a public postsecondary educational institution and a respondent and complainant for the purpose of resolving a complaint of sexual harassment before a final administrative decision is made.

- e) "Public postsecondary educational institution" means any campus of the California Community Colleges, the California State University, the University of California, or the College of the Law, San Francisco.
- f) "Respondent" means the person accused of engaging in prohibited conduct under Title IX of the federal Education Amendments of 1972 (20 U.S.C. Sec. 1681(a)(3)) or under a public postsecondary educational institution's written policy on sexual harassment.
- g) "Retreat rights" means the ability of an administrator who was required to relinquish tenure as a faculty member to become an administrator to return to a faculty position if their administrative role comes to an end.
- h) "Settlement" means an agreement between a public postsecondary educational institution and a respondent for the purpose of resolving a complaint of sexual harassment after a final administrative decision is made. "Settlement" does not include a settlement reached in a civil action brought by the respondent against the public postsecondary educational institution.

COMMENTS

1. Stated need for the bill

According to the author:

Under Title IX, California's public colleges and universities are charged with providing an educational environment free from discrimination on the basis of sex. Unfortunately, these institutions have fallen short in protecting their campus communities, allowing employees who have engaged in sexual harassment to retreat to teaching positions and receive generous settlements that include letters of recommendation.

As an educator myself, I know just how important it is that institutions support students, faculty, and staff that come forward to report discrimination and harassment. It is an unacceptable failure that California's public institutions of higher education are allowing known perpetrators to continue victimizing members of our campus communities.

AB 1905 will prevent employees of California's public colleges and universities from being eligible for retreat rights or letters of recommendation if they have committed sexual harassment. This will ensure that California's public institutions of higher education make a stronger effort to create a safe and inclusive environment for students, faculty, and staff.

2. Senate Education Committee and Assembly Higher Education Committee hosted fact finding briefings that resulted in a report¹ prepared by the Assembly Higher Education Committee with various legislative proposals to prevent and address discrimination on college and university campuses in California

According to the Senate Education Committee, staff from the Assembly Higher Education Committee and their Committee hosted fact-finding briefings with representatives from the California Community Colleges (CCCs), California State University (CSU), University of California (UC) and independent colleges and universities in California. Their goal was to understand how higher education institutions are preventing and addressing sexual discrimination on campuses. The Assembly Higher Education Committee released a report this year that highlights shortcomings with existing law and recommends proposals to prevent and address discrimination on California's higher education campuses.

As explained in the Senate Education Committee analysis of SB 1491 (Eggman, 2024):

Throughout 2023, staff from the Assembly Higher Education Committee and [the Senate Education Committee] hosted fact-finding briefings with representatives from the CCC, CSU, UC and various California Independent Colleges and Universities to understand how higher education institutions are preventing and addressing sexual discrimination on campuses. The Assembly Higher Education Committee released a report that provides a synopsis of the information gleaned from the briefings and a compilation of legislative proposals for how the State can partner with higher education institutions to prevent and address discrimination in all its forms on college and university campuses throughout California. [The report is available at: https://ahed.assembly.ca.gov/system/files/2024-02/a-call-to-action-report-2024_0.pdf]

The provisions of this bill arise from these briefings and this report and are responses to recommendations 5 and 6 of the report.

As explained in the report:

Investigations conducted by EdSource found that multiple faculty at various CSU campuses were able to retain employment despite having violated the CSU's nondiscrimination policies at other CSU campuses. After the faculty resigned from "Campus A" they were able to be employed by "Campus B" (Peele, et. al., 2022). The Los Angeles Times reported that a former CSU professor, who was found to have violated the CSU's nondiscrimination policy

¹ A Call to Action: How Postsecondary Education Institutions Can Address Sex Discrimination and Provide Educational Justice on Campus; The California Assembly Committee on Higher Education (2024).

and settled with the campus, was working at a community college near the CSU campus where the incident occurred (Timmko, A., 2022). In 2023, SB 791 (McGuire) Chapter 415, Statutes of 2023; required all campuses of the CCC and the CSU, and requested campuses of the UC to ask whether the applicant for an academic or administrative position has committed sexual harassment at their previous place of employment within the last seven years. While the bill is an excellent first step, it does not address a key loophole in the campus grievance procedures, which according to The Chronicle of Higher Education is exploited by legal experts: “We advise people when there’s an allegation to get out and start looking for a new school before there is a finding. We don’t have a lot of faith in the ability of schools to conduct fair investigations,” said Joshua A. Engel, a lawyer who represents faculty members and students accused of harassment. Engel has also taught criminal law and consulted with the federal government on Title IX matters” (Brown & Mangan, 2019). The hesitancy to share information between higher education institutions may reside in the fear that the sharing of information could lead to employee lawsuits or litigation should the disclosure request process fail to catch repeat harassers. To shield the institution from liability, institutions should consider a two-part response: (1) require that the applicants in the final stages of the hiring process sign releases allowing prior employers to respond to disclosure requests; and, (2) require that if a history of misconduct is discovered during employment, the campus will have grounds for dismissal.²

3. Instead of protecting students and faculty from sexual assault and sexual harassment, California public postsecondary educational institutions appear to have enacted policies and made decisions that allow abusers and harassers to remain on campus

Students from all three public higher education segments shared personal stories of instances where complaints were filed, investigations concluded with a finding of responsibility, and the responsible party continued to be employed even after a violation was found to have occurred. Permitting employees to return to work without an explanation has led to a deep level of mistrust between students and the administration at all three public higher education institutions.³

An investigative report by USA Today revealed mishandling of sexual harassment complaints by a leader of a public postsecondary educational institution⁴ The

² A Call to Action: How Postsecondary Education Institutions Can Address Sex Discrimination and Provide Educational Justice on Campus; The California Assembly Committee on Higher Education (2024)

³ 2024 Assembly Higher Education Committee report, *A Call to Action: How Postsecondary Education Institutions Can Address Sex Discrimination and Provide Educational Justice on Campus*, p. 18.

⁴ 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

investigation detailed a history of ignored and covered up allegations of sexual harassment by a high ranking CSU employee. Among other things, the report details allegations of retaliation against employees who complained about sexual harassment. The report states that their investigation revealed “a university president who not only took little meaningful action in response to years of sexual harassment complaints, but who publicly praised the perpetrator even after he was found at fault.”

A summary of information provided by CSU officials detailed how professors who had been found to have committed violations of sexual harassment policies at one CSU campus ended up employed at other CSU campuses.⁵ Then-Chancellor Castro benefitted from retreat rights that allowed him to accept a tenured faculty position at a CSU campus as well as other monetary benefits. As these articles show, the current process at the CSU is not working to hold sexual harassers accountable.

In the 9th Circuit decision of *Karasek v. Regents of the University of California*, the Court of Appeals highlighted the following⁶:

Finally, the FAC alleges that UC had a powerful incentive to resolve cases through an informal process. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act requires UC to annually publish the number of “criminal . . . sex offenses, forcible or nonforcible,” that were “reported to campus security authorities or local police agencies” and that occurred on or around campus during the prior two years. 20 U.S.C. § 1092(f)(1)(F)(i). According to the FAC, UC “takes the position” that “it is not required to report the offense” pursuant to the Clery Act “if the matter is resolved informally.” Assuming that is true (as we must, at this stage), it is plausible that choosing to resolve sexual-misconduct complaints through an early resolution process enables UC to escape these statutory disclosure requirements.”

The bill defines “retreat rights” as the ability of an administrator who was required to relinquish tenure as a faculty member to become an administrator to return to a faculty position if their administrative role comes to an end. AB 1905 prohibits an employee of a public postsecondary educational institution from being eligible for retreat rights and receiving a letter of recommendation if the employee is the respondent in a sexual harassment complaint filed with the institution and any of the following occur: the employee is determined in a final administrative decision to have committed sexual harassment; before a final administrative decision is made, the employee resigns from

[Cal State chancellor Joseph Castro mishandled sexual harassment claims \(usatoday.com\)](#) [as of June 8, 2024].

⁵ *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 June 8, 2024].

⁶ *Karasek v. Regents of the University of California*, 956 F.3d 1093 (9th Cir. 2020).

their current position; or the employee enters into a settlement with the public postsecondary educational institution. However, a public postsecondary educational institution may adopt a policy on employees' ineligibility for retreat rights that is more expansive than the provision described above.

Cal Matters explains that retreat right are common in higher education and "are a clause in some administrators' contracts that allows them to leave their post and return to a faculty position[.]"⁷ For example, the CSU defines "retreat" to mean "an Administrator's ability to be reassigned to a faculty position with or without tenure at a designated rank and within a designated department at the end of an administrative assignment."⁸ CSU Board of Trustees retreat policy "applies to all Administrator appointments made at any CSU campus or at the Chancellor's Office that include the option to Retreat to a faculty position."

The following write up on pages 21 to 22 of 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*, relates to this bill:

WHAT ARE THE POLICIES GOVERNING "RETREAT RIGHTS" AND LETTERS OF RECOMMENDATION?

Since the initial USA Today article in 2022 as referenced above, concerns have been raised regarding settlements, retreat rights, and letters of recommendation. During the August 31, 2023 Joint Legislative Audit Committee Hearing, members of the Legislature expressed ongoing concern with the CSU's policies for letters of recommendation and retreat rights, despite recent edits (California State Legislature, 2023). Retreat rights are only provided to tenured faculty and are generally used to encourage faculty to take administrative positions. Retreat rights are meant to be an incentive to help encourage faculty to leave the security of tenure and undertake administrative posts throughout the CCC, CSU, and UC. Retreat rights are collectively bargained and once granted are available to the grantee unless they are dismissed for cause. Settlements are a form of informal resolution used by campuses to settle with faculty and staff prior to a disciplinary sanction being levied. Settlements are often used if it appears that the employee is hostile towards the institution and is likely to either sue or appeal and require a Skelly hearing that could result in an overturn of the disciplinary sanction.

⁷ "Cal State sexual harassment scandal: Your questions answered" by Michaella Huck, Zaeem Shaikh, Julia Woock, and Felicia Mello, Cal Matters, April 11, 2022.

⁸ (CSU Employment Policy Governing Administrator Employees' Option to Retreat, PolicyStat ID 12715152, effective July 13, 2022, adopted by CSU Board of Trustees on November 16, 2022 by Resolution, Resolution No. RUFP 11-22-18, available at: <https://calstate.policystat.com/policy/12715152/latest> [as of June 8, 2024].)

To be clear, the tolerance of sex discrimination by permitting employees with violations to receive perks like letters of recommendation and retreat rights is not only unfair to the survivors but demonstrates a greater concern that the colleges and universities are deliberately indifferent to complaints of sex discrimination on campus.

Colleges and universities should be doing everything within their power to prevent sexual harassment and discrimination on campus as the Ninth Circuit determined in *Karasek v. Regents of the University of California* 956 F.3d 1093 (9th Cir. 2020), that a campus could be held liable if it maintained a policy of deliberate indifference to particular incidents of harassment which heightened a risk of sexual harassment, and a future plaintiff was harassed as a result.

Under this bill an employee of a public postsecondary educational institution will not be eligible for retreat rights or to receive a letter of recommendation if the employee is a respondent in a sexual harassment complaint filed with the institution and the employee is determined to have committed sexual harassment in a final administrative decision. Additionally, in an effort to further protect the campus community from sexual harassers who resign prior to the final administrative decision, this bill prohibits the employee from being eligible for retreat rights and prohibits the employee from receiving a letter of recommendation if the employee resigns from their position before a final administrative decision is made regarding whether they have committed sexual harassment. Finally, the bill prohibits an employee of a public postsecondary educational institution from being eligible for retreat rights and receiving a letter of recommendation if the employee is the respondent in a sexual harassment complaint filed with the institution and the employee enters into a settlement with the institution. This last provision is designed to end the institutions' practice of entering into settlements that ultimately result in perpetrators receiving letters of recommendation so that they can ultimately be employed elsewhere with the backing of a letter of recommendation and no mention of the sexual harassment or continue to be employed by the institution as they retreat to other positions in the institution.

This bill also provides that in order to receive state financial assistance, as defined, the appropriate governing board or body of each public postsecondary educational institution shall adopt a written policy on settlements and informal resolutions of complaints of sexual harassment in cases where the respondent is an employee of the institution that must, at a minimum, include, specified requirements. The requirements are that the campus chief executive officer must preliminarily approve all offers of sexual harassment settlements and informal resolutions and the governing board must approve offers of sexual harassment settlements that have been preliminarily approved by the campus chief executive officer. Additionally, a settlement, an informal resolution, or both, are prohibited from being offered or entered into if: a complainant of the sexual harassment complaint filed against an employee respondent is a student; an employee respondent is accused of committing sexual assault, sexual violence, or sexual battery; or the settlement or informal resolution includes a nondisclosure agreement.

4. Support

The SAFE Campuses Coalition, comprised of Generation Up, Inc., Ignite National, and the Youth Power Project, write the following in support of AB 1905:

California's public colleges and universities are not doing enough to protect their students from the physical and emotional consequences of sexual violence and harassment. Underfunded resource offices and inadequate Title IX standards contribute to underreporting, and perpetuate unsafe campus environments. The recent audit report on the CSU system, "A Call to Action," exposes the failures of current practices, but also provides a comprehensive set of legislative solutions. [citation omitted] We can do more to prevent sexual violence and harassment. We can do more to ensure that survivors have access to critical resources. We can do more to make California's colleges and universities safer for all communities. Change is possible, and the time to act is now.

The California State University Employees Union writes the following in support of AB 1905:

Title IX policies at educational institutions aim 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 the existence of these protections, sexual harassment and assault remain disturbingly pervasive across higher education institutions.

Allowing employees who have engaged in sexual harassment to receive perks like letters of recommendation and retreat rights is both unfair to survivors and creates the appearance that institutions are deliberately indifferent to complaints of sex discrimination on campus.

This measure will increase accountability as well as serve as a deterrent for committing sexual misconduct on our state campuses. Retreat rights, settlements, and letters of recommendations have rewarded the behavior of harassers and abusers for years. Students, faculty, and staff deserve to live, work, and learn in a safe environment and this measure will help restore the balance of power at our higher education institutions.

The CFT, AFT, AFL-CIO writes the following in support of the bill:

Title IX, a clause of the Federal Education Amendments of 1972, prohibits sex-based discrimination at higher education institutions that receive federal funding. The intent of this policy is to provide equal access to education regardless of sex. Sex-based discrimination can include sexual assault, stalking,

domestic violence, dating violence, and sexual harassment. Under Title IX, higher education institutions are charged with doing everything in their power to prevent sexual harassment on their campuses. However, when complaints of sexual harassment are levied against the faculty and staff of these institutions, they are sometimes resolved by reaching a settlement or informal resolution with the respondent. Settlements may be used when campuses believe that an employee may be hostile towards the institution and likely to sue or appeal. Settlements and informal resolutions between higher education institutions and employees accused of sexual harassment may include components like retreat rights and conditions for letters of recommendation. Retreat rights are a benefit that allows a faculty member to opt to return to their former teaching position. They are provided to tenured faculty to encourage them to give up the security of tenure to take on an administrative position.

Despite the decades of reform, there are currently no state laws governing the content of settlements and informal resolutions of complaints of sexual harassment between public higher education institutions and their employees. This means that administrators who sexually harass students or their colleagues may be allowed to return to teaching positions where they interact directly with students. It also means that institutions may unknowingly hire faculty or staff who have committed sexual harassment, subjecting more students, faculty, and staff to this unacceptable behavior.

Tolerating sex-based discrimination by allowing employees who have engaged in sexual harassment to receive perks like letters of recommendation and retreat rights is both unfair to survivors and creates the appearance that institutions are deliberately indifferent to complaints of sex discrimination on campus.

AB 1905 prohibits employees of California's public postsecondary institutions from being eligible for retreat rights or receiving letters of recommendation if they are the subject of a sexual harassment complaint and they are determined to have committed the harassment, they resign from their position before a final determination is made, or they enter into a settlement. It also requires institutions to adopt a written policy on settlements and informal resolutions of sexual harassment complaints when the respondent is an employee.

This policy will make college campuses safer for all members of a campus community.

SUPPORT

California State University Employees Union
California Teachers Association
CFT, AFT, AFL-CIO
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 pending in the Assembly Higher Education Committee.

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 pending in the Assembly Higher Education Committee.

AB 810 (Friedman, 2024) requires CCCs and CSU, and requests UC and private postsecondary education institutions, to implement a policy of requiring potential employees for academic, athletic, and administrative positions to disclose whether they have been the subject of a finding of sexual harassment and to permit the institution to contact past employers to inquire whether the applicant had any substantiated allegations of misconduct. AB 810 is scheduled to be heard in this Committee on the same day as AB 1905.

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 Appropriations 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 Education 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 in the Senate Education 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 this 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 in the Senate Education 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 Appropriations 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 Appropriations Committee.

Prior Legislation:

SB 808 (Dodd, Ch. 417, Stats. 2023) required the CSU 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 CSU, and requested 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 determining that the applicant committed sexual harassment.

AB 1844 (Medina, 2022) would have required disclosure of records of sexual assault and harassment allegations against employees by public postsecondary educational institutions when those employees seek future employment. AB 1844 died in the Assembly Appropriations Committee.

AB 2683 (Gabriel, Ch. 798, Stats. 2022) required the CCCs, CSU, and any independent institution of higher education or private postsecondary education institutions that receives state financial assistance to provide annual sexual harassment and sexual violence prevention training to students, as specified. Requested the UC to provide the same aforementioned annual training to students.

SB 493 (Jackson, Ch. 303, Stats. 2020) required postsecondary educational institutions to, among other things, adopt rules and procedures for the prevention of sexual harassment, and adopt and post on their Web sites the grievance procedures to resolve complaints of sexual harassment.

SB 1375 (Jackson, Ch. 655, Stats. 2016) required all schools receiving federal funding post the following information on their website: the name and contact information of their Title IX Coordinator; the rights of a pupil and the public, and the responsibilities of the school under Title IX; a description of how to file a complaint under Title IX. SB 1375 also required the State Superintendent of Public Instruction to electronically send an annual letter to all schools notifying them of this responsibility.

SB 1435 (Jackson, Ch. 633, Stats. 2016) requested that the "Health Framework for California Public Schools" include comprehensive information on the development of healthy relationships and be age and developmentally appropriate.

AB 2654 (Bonilla, Ch. 107, Stats. 2016) required postsecondary educational institutions to post their written policy on sexual harassment on their websites. AB 2654 also required the policy to include information on the complaint process and the timeline for the complaint process. The policy must include information on where to obtain the specific rules and procedures for pursuing available remedies and resources, both on and off campus.

SB 186 (Jackson, Ch. 232, Stats. 2015) enabled the governing board of a California community college district to exercise jurisdiction over student conduct that occurs off district property in cases of sexual assault and sexual exploitation, regardless of the victim's affiliation with the college.

SB 665 (Block, 2015) would have required the Attorney General to establish a statewide Title IX Oversight Office, required postsecondary educational institutions to report specific data to this office and required each student to complete training on rape and sexual assault awareness and prevention annually. SB 665 was held in the Senate Appropriations Committee.

SB 695 (De León, Ch. 424, Stats. 2015) required K-12 school districts that require completion of a course in health education as a condition of high school graduation to include instruction in sexual assault and violence.

SB 967 (DeLeón, Ch. 748, Stats. 2014) required the governing boards of California community college districts, the Trustees of the California State University system, and the Regents of the University of California, as well as the governing boards of independent postsecondary institutions in California to adopt victim-centered sexual assault, domestic violence, dating violence, and stalking policies as a condition of receiving state funds for student financial assistance.

AB 1433 (Gatto, Ch. 798, Stats. 2014) required the governing board of each public, private and independent postsecondary educational institution, which receives public funds for student financial assistance, to adopt and implement written policies and procedures governing the reporting of specified crimes to law enforcement agencies.

AB 3133 (Roos, Ch. 1117, Stats. 1982) enacted the Sex Equity in Education Act, which, similar to its federal Title IX counterpart, prohibits discrimination in California schools on the basis of sex.

PRIOR VOTES:

Senate Education Committee (Ayes 7, Noes 0)

Assembly Floor (Ayes 73, Noes 0)

Assembly Appropriations Committee (Ayes 15, Noes 0)

Assembly Public Employment and Retirement Committee (Ayes 7, Noes 0)

Assembly Higher Education Committee (Ayes 11, Noes 0)
