

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

AB 2048 (Mike Fong)
Version: May 16, 2024
Hearing Date: June 25, 2024
Fiscal: Yes
Urgency: No
ME

SUBJECT

Community colleges: community college sexual harassment and Title IX working group

DIGEST

This bill requires the Chancellor of the California Community Colleges (CCCs) to establish a community college sexual harassment and Title IX working group, as specified, and study specified topics and report back to the Legislature.

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 2048 is one of the bills designed to create a safer environment at California's community colleges.

The provisions in this bill arise from findings in a 2024 Assembly Higher Education Committee report.¹ This bill requires the Chancellor of the CCCs to convene a community college sexual harassment and Title IX working group to include specified members. The bill requires the working group to, among other things, review the policies and procedures of a sampling of no less than 15 community college districts and determine if existing community college district policies and procedures regarding faculty-student and staff-student relationships and sexual harassment are adequate to prevent, detect, and address sexual harassment, and whether they are consistent with best practices, and review a sampling of no less than 18 community college district Title IX offices and determine, among other things, whether community college district Title

¹ See Assembly Higher Education Committee report entitled *A Call to Action: How Postsecondary Education Institutions Can Address Sex Discrimination and Provide Educational Justice on Campus* (2024), available at https://ahed.assembly.ca.gov/system/files/2024-02/a-call-to-action-report-2024_0.pdf [as of June 9, 2024]

IX offices are equipped with adequate staff to prevent, detect, and address sexual harassment on community college campuses. In addition, this bill requires the working group, on or before February 1, 2026, to submit a report to the Legislature containing its findings and policy recommendations, as specified.

The bill is supported by the California State University Employees Union, the Faculty Association of California Community Colleges, and Lieutenant Governor Eleni Kounalakis. The bill is opposed by Stop Abuse for Everyone, an organization that opposes most of the bill package that seek to implement recommendations from the Assembly Higher Education Committee report. AB 2024 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) Provides that no person participating in any program or activity conducted by any postsecondary education institution, that receives state financial assistance or enrolls students who receive state financial aid, is to be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any characteristic listed or defined in Government Code section 11135 or any other characteristic that is contained in the prohibition of hate crimes defined in Penal Code Section 422.6 (a), including immigration status. (Educ. Code § 66270.)
- 2) Provides that no person participating in any program or activity, that is conducted, operated, or administered by the state or state agency that is funded directly by the state or receives any financial assistance from the state, will not be subjected to discrimination nor denied full or equal access to benefits, on the basis of sex, race,

color, religion, ancestry, national origin, ethnic group identification, age, mental disability, physical disability, medical condition, genetic information, marital status, or sexual orientation and clarifies that this section applies to the CSU. (Gov. Code § 11135.)

This bill:

- 1) Requires the Chancellor of the California Community Colleges (CCCs) to convene a community college sexual harassment and Title IX working group.
- 2) Provides that all appointments to the working group shall be completed on or before March 1, 2025.
- 3) Provides that the working group shall include, but not be limited to, the following members: the Chancellor of the CCCs or the chancellor's designee; a Community College League of California representative; at least three community college presidents or chief executive officers, including, but not limited to, a representative from a rural community college and a representative from a single campus community college district; four community college Title IX officers, including, but not limited to, the Vice President of Human Resources for Glendale Community College; a representative from the Faculty Association of California Community Colleges; a representative from the Student Senate for CCCs; a representative from the Academic Senate for CCCs; a representative from a personnel commission; four community college general counsels, including, but not limited to, a general counsel from a rural community college and a general counsel from a single campus community college district; the Chair of the Assembly Committee on Higher Education or the chair's designee; and the Chair of the Senate Committee on Education or the chair's designee.
- 4) Requires the working group to review the policies and procedures of a sampling of no less than 15 community college districts and determine if existing community college district policies and procedures regarding faculty-student and staff-student relationships and sexual harassment are adequate to prevent, detect, and address sexual harassment, and whether they are consistent with best practices.
- 5) Requires the working group to review and determine if existing regulations in the California Code of Regulations regarding sexual harassment are adequate to prevent, detect, and address sexual harassment, and whether they are consistent with best practices.
- 6) Requires the working group to determine if the CCCs should have community college district-based policies or a systemwide policy to adequately prevent, detect, and address sexual harassment in a manner that is in compliance with state and federal law and existing best practices.

- 7) Requires the working group to determine to what extent a systemwide model of compliance would best assist community colleges in their duty to prevent, detect, and address sexual harassment on campus.
- 8) Requires the working group to determine to what extent a regional model of compliance would best assist community colleges in their duty to prevent, detect, and address sexual harassment on campus.
- 9) Requires the working group to review a sampling of no less than 18 community college district Title IX offices and determine the following: whether community college district Title IX offices are equipped with adequate staff to prevent, detect, and address sexual harassment on community college campuses; whether community college district Title IX offices are fulfilling the obligation of the community college districts to prevent, detect, and address sexual harassment on community college campuses; whether community college district Title IX offices are the best model to prevent, detect, and address sexual harassment on community college campuses or if a campus-based model should be adopted; the appropriate number of staff for each community college district to prevent, detect, and address sexual harassment on community college campuses; and if the CCCs Chancellor's Office is effective in its duty to monitor community colleges for their compliance with state and federal laws pertaining to sexual harassment.
- 10) Requires the working group to submit a report to the Legislature, pursuant to Section 9795 of the Government Code, containing its findings and policy recommendations in connection with its activities pursuant to this subdivision, on or before February 1, 2026.
- 11) Provides that the provisions of this bill become inoperative on July 1, 2026, and, as of January 1, 2027, are repealed.

COMMENTS

1. Author's statement

According to the author:

California has long been heralded as a state for equity and inclusion; however the systems in place for our college campuses to monitor and address sex discrimination are archaic when compared to other states. AB 2048 seeks to identify best practices for requiring the CCC to provide methods and oversight to ensure college campuses are preventing and addressing sexual harassment and sex discrimination in a manner that fosters trust and restores educational equity to the survivors. AB 2048 would establish a community college sexual harassment and Title IX working group who will examine the existing structure

of the CCC for preventing and addressing sex discrimination and will provide recommendations for improvement to the Legislature by February 1, 2026.

2. Senate Education Committee and Assembly Higher Education Committee hosted fact finding briefings that resulted in a report² 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 CCCs, CSUs, UCs 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.

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*, page 2, explains:

Title IX goes beyond ensuring women have access to sports and academic majors; it requires all higher education institutions to provide educational programs free from sex discrimination. The prevention of sex discrimination is more than simply having a policy on how to address complaints. Prevention is creating a campus culture that addresses the root cause of sex discrimination before it becomes a complaint. The prevention of sex discrimination includes training where bystanders are empowered to intervene, a campus where students, faculty, and staff are encouraged to report incidents, and a culture, where those reports are met with support for all parties involved. Policies are necessary to address sex discrimination when it occurs, but those policies should be trauma-informed and focused on imposing accountability rather than retribution when conduct is found to have violated the campuses' policies or the law.

As further explained on page 2 of the report, sex discrimination "means sexual assault, sexual harassment, stalking, domestic violence, and dating violence...The prevention of sex discrimination on college and university campuses in California is outlined in three main sets of policies: Federal (Title IX), State (Sex Equity in Higher Education act and related sections of the Education Code), and the higher education institution's policies."

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) available at https://ahed.assembly.ca.gov/system/files/2024-02/a-call-to-action-report-2024_0.pdf

The Senate Education Committee analysis of SB 1491 (Eggman, 2024) explains the genesis of the report:

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 provisions of this bill arise from these briefings and this report. As explained by the author, “[d]uring briefings for the ‘A Call to Action’ report, CCC Chancellor's Office, confirmed the Office does not actively monitor each district's compliance with either state or federal law, nor do they actively monitor each community college's district policies as to whether the policies comply with federal or state law.” The author further notes that the report explained that the CCC is the only system without a systemwide Title IX coordinator and a systemwide nondiscrimination policy.

This bill requires the Chancellor of the CCCs to convene a community college sexual harassment and Title IX working group to include specified members. The bill requires the working group to, among other things, review the policies and procedures of a sampling of no less than 15 community college districts and determine if existing community college district policies and procedures regarding faculty-student and staff-student relationships and sexual harassment are adequate to prevent, detect, and address sexual harassment, and whether they are consistent with best practices, and review a sampling of no less than 18 community college district Title IX offices and determine, among other things, whether community college district Title IX offices are equipped with adequate staff to prevent, detect, and address sexual harassment on community college campuses. In addition, this bill requires the working group, on or before February 1, 2026, to submit a report to the Legislature containing its findings and policy recommendations, as specified.

3. Support

In support of this bill, the California State University Employees Union writes:

Title IX policies at educational institutions aim to protect students, educators, and school employees against all forms of sex or gender discrimination, but the 2024 report entitled “A Call to Action,” authored by the Assembly Committee on Higher Education, found that although each system has Title IX offices, they are understaffed and lack clear objectives for how to address and prevent

sexual harassment. The report also found that none of the systemwide policies require the Title IX coordinators to engage with campus leadership regarding plans to combat and prevent sex discrimination.

In order to effectively combat the culture of sexual harassment prevalent across college campuses, it is imperative that Title IX offices have effective infrastructure and best practices in place, as well as adequate staffing. Convening a working group within the CCC is a crucial first step to change as it will help determine where to start and how best to approach these efforts.

Students, faculty, and staff deserve to live, work, and learn in a safe environment. This measure will help provides clear guidance for the CCC to address and prevent sexual harassment on their campuses.

The Lieutenant Governor Eleni Kounalakis writes the following in support of AB 2048:

I am proud to support Assembly Bill (AB) 2048, which will create a working group to examine existing structures for preventing and addressing sexual harassment within the California Community College (CCC) system and recommend policies for improvement.

In December 2023, the Assembly Higher Education Committee produced a report, *A Call to Action*, identifying how California's postsecondary institutions can address sex discrimination and harassment on their campuses. AB 2048 is one of 12 bills in the resulting legislative package, aiming to make our campuses safer places to live, work, and learn. AB 2048 requires the CCC Chancellor to establish a working group to examine and provide recommendations on improving existing policies addressing and preventing sexual harassment and discrimination. As the only system without a systemwide Title IX coordinator, this legislation is critical to ensure that best practices are being implemented across the 116 campuses serving over 2 million students.

As a member of all three public higher education boards, I have heard firsthand from our students the need to reform how our campuses handle Title IX violations. AB 2048 will be an important step towards addressing these shortfalls and improving campus culture.

For these reasons, I am proud to support AB 2048.

SUPPORT

California State University Employees Union
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 in the Assembly Appropriations 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 in the Assembly Judiciary 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 in the Senate Appropriations Committee.

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 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 in the Senate Appropriations Committee.

AB 2047 (Mike Fong, 2024) requires each CSU and UC campus to establish a Title IX office, under the administration of a Title IX coordinator, in a private space for students and employees to disclose reports and complaints of sex discrimination, and specifies what the Title IX offices and coordinator must do. The bill provides that the Title IX coordinators shall have the authority and responsibility to implement a consistent campuswide response to complaints of sex discrimination. The bill requires the CSU and UC to establish systemwide Offices of Civil Rights and designate a staff person as the systemwide civil rights officer and specifies their duties. AB 2047 is in the Senate Judiciary 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 in the Senate Appropriations 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 Appropriations Committee.

AB 2492 (Irwin, 2024) requires each public postsecondary education institution to establish the following positions: confidential student advocate to assist students who file complaints of sex discrimination with a Title IX office or have experienced sex discrimination; a confidential staff and faculty advocate to assist staff and faculty who have filed a complaint of sex discrimination with a Title IX office or have experienced sex discrimination; and a confidential respondent services coordinator to assist students, staff, or faculty who have been accused of sex discrimination. AB 2942 is in the Senate Judiciary 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 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 CCC 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 (DeLeón, 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 CCC districts, the CSU Trustees, and the UC Regents, 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.

SB 777 (Kuehl, Ch. 559, Stats. 2007) revised the list of prohibited bases of discrimination and the kinds of prohibited instruction, activities, and instructional materials in the Education Code, and instead referred to the protected characteristics contained in the definition of hate crimes in the Penal Code. Defined disability, gender, nationality, race or ethnicity, religion, and sexual orientation for this purpose. Changed the current references of "handicapped" individuals in the Education Code to, instead, refer to individuals with physical disabilities.

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 69, Noes 0)

Assembly Appropriations Committee (Ayes 11, Noes 0)

Assembly Higher Education Committee (Ayes 11, Noes 0)
