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AB-2785 Student services: lactation accommodations. (2017-2018)

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Assembly Bill No. 2785

CHAPTER 947

An act to add Section 66271.9 to the Education Code, relating to public postsecondary education.

[Approved by Governor September 30, 2018. Filed with Secretary of State September 30, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2785, Rubio. Student services: lactation accommodations.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, and the California State University, under the administration of the Trustees of the California State University, as 2 of the segments of public postsecondary education in this state.

Existing federal law requires an educational institution to treat pregnancy, childbirth, recovery from childbirth, and other specified conditions in the same manner and under the same policies as any other temporary disability. Existing law also prohibits discrimination on the basis of disability, gender, or other specified characteristics in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state financial aid. Existing law requires a school operated by a school district or a county office of education, the California School for the Deaf, the California School for the Blind, or a charter school to provide, if there is at least one lactating pupil on the school campus, reasonable accommodations to a lactating pupil on a school campus to express breast milk, breast-feed an infant child, or address other needs related to breast-feeding, as prescribed.

This bill would require the California Community Colleges and the California State University, and encourage a satellite campus of these systems and the University of California, to provide reasonable accommodations to a lactating student on their respective campuses to express breast milk, breast-feed an infant child, or address other needs related to breast-feeding, as specified. The bill would require the respective educational institution to provide a sink, in addition to the accommodations described above, upon the construction of a new campus of the California Community Colleges or the California State University, the replacement, expansion, or renovation of an existing building regularly used by students, or the construction of a new building designed for use by students, as specified. This bill would not require an existing room designated for the specified purposes to contain a sink. The bill would also require that a lactating student on a college or university campus be given a reasonable amount of time to accommodate the need to express breast milk or breast-feed an infant child, and that the accommodation be available whenever a student is required to be on campus. The bill would prohibit students from incurring an academic penalty as a result of their use of these reasonable accommodations. The bill would authorize a complaint of noncompliance with the requirements of the bill to be filed in accordance with specified procedures, and, if the complaint is found to have merit, would require the respective campus or appellate body to provide a remedy to the affected student. This bill would require that these accommodations be implemented no later than January 1, 2020, and urge the University of California to implement the bill provisions by this date. By imposing additional duties on community college districts, this bill would impose a state-mandated local program.

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

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

(a) Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.) prohibits sex discrimination in educational institutions, which includes discrimination against pregnant and parenting students.

(b) The federal regulations implementing Title IX of the Education Amendments of 1972 specify that sex discrimination includes discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from childbirth-related conditions.

(c) The federal regulations implementing Title IX of the Education Amendments of 1972 require a student with temporary medical conditions occasioned by pregnancy or related to recovery from childbirth to be treated the same as any other student with a temporary disability.

(d) The Equity in Higher Education Act (Chapter 4.5 (commencing with Section 66250) of Part 40 of Division 5 of Title 3 of the Education Code) prohibits sex discrimination in postsecondary educational institutions, which includes discrimination against pregnant and parenting students.

(e) The Unruh Civil Rights Act (Section 51 of the Civil Code) prohibits businesses, including public schools, from discriminating based on sex, which includes discrimination on the basis of pregnancy, childbirth, or medical conditions related to pregnancy or childbirth.

(f) Despite these laws, California postsecondary educational institutions are failing to accommodate the needs of lactating student parents on their campuses by not providing them with reasonable time and private space to express breast milk, breast-feed infant children, or not addressing other needs related to breast-feeding.

SEC. 2. Section 66271.9 is added to the Education Code, to read:

66271.9. (a) The California Community Colleges and the California State University shall, and a satellite campus of these systems and the University of California are encouraged to, provide reasonable accommodations on their respective campuses for a lactating student to express breast milk, breast-feed an infant child, or address other needs related to breast-feeding. Reasonable accommodations under this section include, but are not limited to, all of the following:

(1) Access to a private and secure room, other than a restroom, to express breast milk or breast-feed an infant child. The room shall have a comfortable place to sit and have a table or shelf to place equipment described in paragraph (3).

(2) Permission to bring onto a college or university campus a breast pump and any other equipment used to express breast milk.

(3) Access to a power source for a breast pump or any other equipment used to express breast milk.

(b) Lactating students on a college or university campus shall be provided a reasonable amount of time to accommodate their need to express breast milk or breast-feed an infant child.

(c) A campus of the California Community Colleges or the California State University may use an existing facility to meet the requirements specified in subdivision (a).

(d) Students shall not incur an academic penalty as a result of their use of the reasonable accommodations specified in this section, and shall be provided the opportunity to make up any work missed due to such use.

(e) Upon the construction of a new campus of the California Community Colleges or the California State University, the replacement, expansion, or renovation costing five million dollars (\$5,000,000) or more involving plumbing of an existing building regularly used by students, including a student center, or the construction of a new building costing five million dollars (\$5,000,000) or more designed for use by students, the respective educational institution shall provide a sink in addition to the accommodations described in subdivision (a) in a room in the newly constructed campus or building, or in a room in the replaced,

expanded, or renovated building. This subdivision only applies to an educational institution if the campus room currently designated for a lactating student to express breast milk or breast-feed an infant child does not have a sink.

(f) This section does not require an existing room designated for a lactating student to express breast milk or breast-feed an infant child to have a sink.

(g) The lactation accommodation shall be available to a student whenever a student is required to be present on campus.

(h) (1) A complaint of noncompliance with the requirements of this section may be filed consistent with Subchapter 5 (commencing with Section 59300) of Chapter 10 of Division 6 of Title 5 of the California Code of Regulations. If the complaint is found to have merit, the campus or appropriate appellate body shall provide a remedy to the affected student.

(2) A complaint of noncompliance with the requirements of this section may be filed consistent with the procedures established by the California State University for complaints by students of discrimination based on disability, gender, or other applicable characteristics, and a student shall be afforded any remedies the student is entitled to pursuant to those procedures.

(i) This section does not infringe on any right to breast-feed in public pursuant to Section 43.3 of the Civil Code or any other law.

(j) The requirements in this section shall be implemented by the California Community Colleges and the California State University, and the University of California is urged to implement the requirements in this section, no later than January 1, 2020.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.