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AB-615 Higher Education Employer-Employee Relations Act: procedures relating to employee termination or discipline. (2021-2022)

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Assembly Bill No. 615

CHAPTER 563

An act to add Section 3571.5 to the Government Code, relating to higher education employment relations.

[Approved by Governor October 06, 2021. Filed with Secretary of State October 06, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 615, Rodriguez. Higher Education Employer-Employee Relations Act: procedures relating to employee termination or discipline.

The Higher Education Employer-Employee Relations Act provides for negotiations concerning wages, hours, and other terms and conditions of employment between a higher education employer, defined as the Regents of the University of California, the Board of Directors of the Hastings College of the Law, and the Trustees of the California State University, and representatives of recognized employee organizations.

This bill would require a higher education employer to provide a procedure for all medical and dental interns and residents, persons in accredited resident physician subspecialty programs, and other postgraduate medical and dental trainees in unaccredited programs to challenge a termination of employment or a disciplinary action, as defined, by the employer, after the employee has exhausted available administrative or academic grievance processes, as provided. The bill would prohibit applying that procedure to a termination of employment or disciplinary action based on certain academic or clinical matters.

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

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

SECTION 1. Section 3571.5 is added to the Government Code, to read:

3571.5. (a) (1) (A) A higher education employer shall provide a procedure for all medical and dental interns and residents, persons in resident physician subspecialty programs accredited by the Accreditation Council for Graduate Medical Education, and other postgraduate medical and dental trainees in programs not accredited by the Accreditation Council for Graduate Medical Education to challenge a termination of employment or a disciplinary action by the higher education employer, as specified in subparagraph (B).

(B) Before exercising a challenge under this section, a higher education employee shall first exhaust any administrative or academic grievance processes that are available to that employee. An administrative or disciplinary action taken by the higher education employer that is based on neither clinical nor academic matters and that is subject to appeal under that employer's procedures may be grieved. The exclusive representative may file a grievance following the result of the higher education employer's formal review.

(2) A challenge by an employee described in paragraph (1) pursuant to this section shall be heard by a panel consisting of a designee of the exclusive representative, a designated representative of the graduate medical education program, and an impartial hearing officer or arbitrator. The panel shall have the power to review the employer's action and provide a full remedy for termination or discipline without just cause. If the employee is represented by an exclusive representative, the impartial hearing officer or arbitrator shall be jointly selected by the higher education employer and exclusive representative.

(3) If there is a memorandum of understanding between a higher education employer and an exclusive representative that provides a procedure for the employee or employee's representative to challenge a termination of employment or a disciplinary action before a neutral decisionmaker, the provisions of the memorandum of understanding providing for that procedure shall control over the requirements of this section.

(b) (1) This section shall not apply to a termination of employment or disciplinary action based on those academic or clinical matters that are excluded from the scope of representation. For purposes of this section, "academic or clinical matters" means those matters that relate to whether the employee has developed the practice-based learning and improvement, patient care and procedural skills, systems-based practice related to medical judgment, and medical knowledge competencies that are necessary to function at the current level of training, advance to the next level of training, or be assessed as eligible for graduation and board certification.

(2) For matters that are submitted to arbitration, an arbitrator shall not have the authority to order a higher education employer to advance an employee or trainee to the next level of training, or attest that an employee or trainee is eligible for graduation or board certification.

(c) For purposes of this section, "disciplinary action" means restriction, suspension, nonrenewal, or termination of employment.