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AB-2925 Postsecondary education: Equity in Higher Education Act: prohibition on discrimination: training. (2023-2024)

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Assembly Bill No. 2925

CHAPTER 844

An act to amend Sections 66252, 66261.3, and 66262 of, and to add Section 66268 to, the Education Code, relating to postsecondary education.

[Approved by Governor September 28, 2024. Filed with Secretary of State September 28, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2925, Friedman. Postsecondary education: Equity in Higher Education Act: prohibition on discrimination: training.

The Donahoe Higher Education Act sets forth, among other things, the missions and functions of California's public and independent segments of higher education and their respective institutions of higher education. A provision of the act applies to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make the provision applicable.

A portion of the Donahoe Higher Education Act, known as the Equity in Higher Education Act, provides, among other things, that all students have the right to participate fully in the educational process, free from discrimination and harassment, and that California's postsecondary educational institutions have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity. For purposes of the Equity in Higher Education Act, existing law defines "nationality" to include citizenship, country of origin, and national origin and defines "religion" to include all aspects of religious belief, observance, and practice, as provided.

This bill would instead provide that California's postsecondary educational institutions have an affirmative obligation to combat discrimination on the basis of disability, gender, gender identity, gender expression, nationality or national identity, race or ethnicity, religion, sexual orientation, and other specified characteristics, and a responsibility to provide equal educational opportunity. For purposes of the Equity in Higher Education Act, the bill would instead define "nationality" or "national identity" to include a person's actual or perceived shared ancestry or ethnic characteristics, citizenship, or residency in a country with a dominant religion or distinct religious identity, as provided. For purposes of the Equity in Higher Education Act, the bill would define "discrimination on the basis of religion" to include, but not be limited to, anti-Semitism and Islamophobia. The bill would also state that it is the intent of the Legislature that each postsecondary educational institution undertake supportive measures to help students who have encountered discriminatory incidents, regardless of the location of the discriminatory incident, if the student feels the incident impairs their access to equal educational opportunities.

This bill would require the California Community Colleges, the California State University, and independent institutions of higher education and private postsecondary educational institutions that receive state financial assistance, and would request the University of California, to include training to address discrimination against the 5 most targeted groups in the state, as provided, as part of any general antidiscrimination training or diversity, equity, and inclusion training that is offered by the institution, except

as specified. By imposing new requirements on community college districts, the 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. Section 66252 of the Education Code is amended to read:

66252. (a) All students have the right to participate fully in the educational process, free from discrimination and harassment. Existing law, pursuant to Section 66270, provides that no person shall 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 Section 11135 of the Government Code, or any other characteristic 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, 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 student financial aid.

(b) California's postsecondary educational institutions have an affirmative obligation to combat discrimination on the basis of disability, gender, gender identity, gender expression, nationality or national identity, race or ethnicity, religion, sexual orientation, or any characteristic listed or defined in Section 11135 of the Government Code, or any other characteristic 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, and a responsibility to provide equal educational opportunity.

(c) Harassment directed at an individual on the basis of actual or perceived characteristics or status may create a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.

(d) There is an urgent need to prevent and respond to acts of discrimination on the basis of disability, gender, gender identity, gender expression, nationality or national identity, race or ethnicity, religion, sexual orientation, or any characteristic listed or defined in Section 11135 of the Government Code, or any other characteristic 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, that are occurring at an increasing rate in California's postsecondary educational institutions.

(e) There is an urgent need to teach and inform students about their rights, as guaranteed by the federal and state constitutions, in order to increase students' awareness and understanding of their rights and the rights of others, with the intention of promoting tolerance and sensitivity in postsecondary educational institutions and in society as a means of responding to potential harassment and violence caused by discrimination.

(f) It is the intent of the Legislature that each postsecondary educational institution undertake educational activities to counter discriminatory incidents on campus and, within constitutional bounds, to minimize and eliminate a hostile environment on campus that impairs the access of students to equal educational opportunity.

(g) It is the intent of the Legislature that each postsecondary educational institution undertake supportive measures to help students who have encountered harassing or discriminatory incidents, regardless of the location of the harassing or discriminatory incident, to ensure students' access to equal educational opportunities.

(h) It is the intent of the Legislature that each postsecondary educational institution address all forms of bias as part of their affirmative obligation to address discrimination on campus.

(i) It is the intent of the Legislature that this chapter shall be interpreted as consistent with Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 2000d, et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the federal Equal Educational Opportunities Act (20 U.S.C. Sec. 1701, et seq.), the Unruh Civil Rights Act (Section 51 of the Civil Code), and the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), except where this chapter may grant more protections or impose additional obligations, and

that the remedies provided in this chapter shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes.

SEC. 2. Section 66261.3 of the Education Code is amended to read:

66261.3. "Nationality" or "national identity" includes a person's actual or perceived shared ancestry or ethnic characteristics, citizenship, or residency in a country with a dominant religion or distinct religious identity. Discrimination against Jewish, Muslim, Sikh, Hindu, Christian, or Buddhist students, or students of another religious group, when the discrimination involves racial, ethnic, or ancestral slurs or stereotypes, constitutes discrimination on the basis of nationality or national identity.

SEC. 3. Section 66262 of the Education Code is amended to read:

66262. "Religion" includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism. "Discrimination on the basis of religion" includes, but is not limited to, anti-Semitism and Islamophobia.

SEC. 4. Section 66268 is added to the Education Code, immediately preceding Section 66270, to read:

66268. (a) It is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their race, color, or national origin, should enjoy freedom from discrimination of any kind, including harassment based on a person's actual or perceived shared ancestry or ethnic characteristics, or citizenship or residency in a country with a dominant religion, as described in Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 2000d, et seq.), in the postsecondary educational institutions of the state.

(b) (1) The California Community Colleges, the California State University, independent institutions of higher education that receive state financial assistance, and private postsecondary educational institutions that receive state financial assistance shall, and the University of California is requested to, include training to address discrimination against the five most targeted groups in the state, as determined pursuant to paragraph (2), as part of any general antidiscrimination training or diversity, equity, and inclusion training that is offered by the institution, except any trainings targeted to solely address discrimination based on specific groups, including, but not limited to, age, disability, or sexual orientation.

(2) To determine the five most targeted groups in the state, postsecondary educational institutions shall refer to the subcategory bias motivations with the highest number of events, as provided in Table 1 of the annual "Hate Crime in California" publication by the Attorney General, which reports hate crime data required to be submitted to the Attorney General by law enforcement agencies pursuant to Section 13023 of the Penal Code.

(c) The training required pursuant to subdivision (b) shall not be incorporated into the sexual violence and sexual harassment prevention training required pursuant to Section 67385.7.

(d) This section does not preclude the trainings required pursuant to subdivision (b) from incorporating discrimination against groups that are not listed in the five most targeted groups in the state. Trainings offered pursuant to subdivision (b) are encouraged to promptly address incidents of discrimination against one or more particular groups on the respective campus, especially groups that historically underreport incidents, even if they are not among the five most targeted groups in the state.

(e) It is the intent of the Legislature that all general antidiscrimination trainings and diversity, equity, and inclusion trainings address the complex and cumulative way in which the effects of multiple forms of discrimination combine, overlap, or intersect, especially in the experiences of marginalized individuals or groups.

SEC. 5. 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.