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SB-1287 Public postsecondary education: Equity in Higher Education Act: prohibition on violence, harassment, intimidation, and discrimination. (2023-2024)

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Senate Bill No. 1287

CHAPTER 892

An act to add Section 66270.7 to the Education Code, relating to public postsecondary education.

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1287, Glazer. Public postsecondary education: Equity in Higher Education Act: prohibition on violence, harassment, intimidation, and discrimination.

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.

This bill would state that the Trustees of the California State University and the Regents of the University of California have the primary responsibility to prevent and address conduct that either creates a hostile environment for students on campus or results in differential treatment of students on campus, as specified. The bill would require the trustees to, among other things, adopt rules and procedures, as specified, to prohibit violent, harassing, intimidating, or discriminatory conduct that creates a hostile environment on campus, to prohibit conduct that limits or denies a person's ability to participate in or benefit from the free exchange of ideas or the educational mission of the California State University, and to establish, and require each campus to publish on campus internet websites, reasonable content-neutral time, place, and manner restrictions and, if applicable, any advance permitting requirements for protests on campus. The bill would require the trustees to develop mandatory training programs to educate students on what constitutes violent, harassing, intimidating, or discriminatory conduct that creates a hostile environment on campus, the procedures for investigating violations of the student code of conduct, when and where protests and gatherings may be held, as specified, and on how to exchange views in an atmosphere of mutual respect and civility. The bill would require the trustees to submit a report, on or before January 2, 2025, and annually thereafter, to the Legislature on the implementation and administration of the bill. The bill would request the University of California to comply with these provisions. The bill would make its provisions severable.

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

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

SECTION 1. (a) As used in this section, the following definitions apply:

- (1) "Institution" means a campus of the California State University or the University of California.
- (2) "Segment" means the California State University or the University of California.

(b) The Legislature finds and declares all of the following:

- (1) Free speech, academic freedom, and the free exchange of views among students and faculty are all critical to the educational missions of the segments.
- (2) It is also critical to the educational missions of the segments that speech and the exchange of ideas take place in a constructive environment of mutual respect for diversity of backgrounds, ideas, and viewpoints in order to do all of the following:
 - (A) Maximize the exchange of views.
 - (B) Achieve the goals of excellence in research, teaching, and learning.
 - (C) Achieve the goal of developing lifelong citizenship skills.
- (3) The educational missions and goals of the segments are severely disrupted by actions that constitute violence, harassment, intimidation, and discrimination in violation of federal or state law, segment rules, or institutions' codes of conduct.
- (4) The values of free speech, the free exchange of ideas, and the opportunities to all who wish to express their views on campus at an institution are important values and provide critical contributions to the educational missions of the segments.
- (5) A constructive environment of mutual respect is just as important to furthering free speech as it is to furthering the educational missions of the segments.
- (6) The values of free speech, the free exchange of ideas, and the opportunities to all who wish to express their views on campus at an institution are impaired by actions that constitute violence, harassment, intimidation, and discrimination in violation of federal or state law, segment rules, or institution codes of conduct.
- (7) Violence, harassment, intimidation, and discrimination based on a person's identity, ideas, or viewpoints violate the rights of the victims and impair both the educational missions of the segments and the values of free speech.
- (8) Violence, harassment, intimidation, and discrimination may violate federal and state antidiscrimination laws applicable to the segments, including Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 2000d et seq.) and Section 66270 of the Education Code, and frustrate the efforts of the segments to comply with these laws and ensure that the victims have the opportunity to participate fully and equally in their chosen institution experience.
- (9) Violence, harassment, intimidation, and discrimination in the sheltered environment of a residential institution impair the educational missions of the segment, undermine the value of antidiscrimination embodied in federal and state civil rights laws, and diminish, in the aggregate, the exercise of free speech by intimidating members of the institution's community who become reluctant to express their views.
- (10) In numerous instances, participants in institution activities have done both of the following:
 - (A) Engaged in violence, harassment, intimidation, and discrimination.
 - (B) Interfered, through force, threat of force, or intimidation, with rights established under the First Amendment to the United States Constitution and Section 2 of Article I of the California Constitution, or otherwise interfered with the free exchange of ideas or the educational mission of the segment.
- (11) The activities described in paragraph (10) have impaired the educational missions of the segments, undermined federal and state antidiscrimination laws, interfered with the exercise of rights established under the First Amendment to the United States Constitution and Section 2 of Article I of the California Constitution, and interfered with the free exchange of ideas by the members of institution communities.

SEC. 2. Section 66270.7 is added to the Education Code, to read:

66270.7. (a) As used in this section, "Hostile environment" means unwelcomed conduct based on a person's actual or perceived race, color, ethnicity, national origin, religion, or disability status, that based on the totality of circumstances, is subjectively and

objectively offensive, and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from an institution's education program or activity.

(b) The Trustees of the California State University and the Regents of the University of California have the primary responsibility to prevent and address conduct that either creates a hostile environment for students on campus, or results in differential treatment of students on campus based on a student's actual or perceived race, color, ethnicity, national origin, religion, or disability status.

(c) The Trustees of the California State University shall do all of the following:

(1) Adopt rules and procedures in the student codes of conduct to provide all of the following elements:

(A) Prohibit violent, harassing, intimidating, or discriminatory conduct that creates a hostile environment on campus.

(B) Prohibit conduct that limits or denies a person's ability to participate in or benefit from the free exchange of ideas or the educational mission of the California State University.

(C) Establish reasonable content-neutral time, place, and manner restrictions, and, if applicable, any advance permitting requirements for protests on campus.

(2) Adopt rules and procedures to take reasonable steps to respond to each incident described in subparagraphs (A) and (B) of paragraph (1) that creates a hostile environment on campus.

(3) Require each campus to publish on the campus's internet website the time, place, and manner restrictions, and any advance permitting requirements for protests on campus.

(4) Develop mandatory training programs to educate students on all of the following:

(A) What constitutes violent, harassing, intimidating, or discriminatory conduct that creates a hostile environment on campus, and the procedures for investigating violations of the student code of conduct.

(B) When and where protests and gatherings may be held, including the difference between public fora, limited public fora, nonpublic fora, and private property, consistent with the First Amendment to the United States Constitution and Section 2 of Article I of the California Constitution.

(C) How to exchange views in an atmosphere of mutual respect and civility.

(5) Require, as a condition of enrollment at a California State University campus, each student attending the campus to acknowledge the campus's student code of conduct.

(d) The Trustees of the California State University and each California State University campus shall ensure that any policy adopted or enforced pursuant to this section, as applicable, is consistent with the First Amendment to the United States Constitution, Section 2 of Article I of the California Constitution, and Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 2000d et seq.).

(e) (1) On or before January 2, 2025, and annually thereafter, the Trustees of the California State University shall submit a report to the Legislature on the implementation and administration of this section. This report shall include information on student code of conduct violations relating to incidents described in subparagraphs (A) and (B) of paragraph (1) of subdivision (c).

(2) A report submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(f) The University of California is requested to comply with this section.

(g) This section is intended to be interpreted consistent with the First Amendment to the United States Constitution and Section 2 of Article I of the California Constitution.

(h) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.