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SB-1491 Postsecondary education: Equity in Higher Education Act. (2023-2024)

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Senate Bill No. 1491

CHAPTER 490

An act to amend Sections 66262.7, 66271.2, 66290.2, and 66302 of the Education Code, relating to postsecondary education.

[Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1491, Eggman. Postsecondary education: Equity in Higher Education Act.

(1) The Equity in Higher Education Act, among other things, prohibits a person from being subjected to discrimination on the basis of specified attributes, including sex, in any program or activity conducted by a postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid. Existing law defines "sexual orientation" for purposes of the Equity in Higher Education Act. Existing federal law, known as Title IX of the Education Amendments of 1972, prohibits a person, on the basis of sex, from being excluded from participation in, being denied the benefits of, or being subject to discrimination under, any education program or activity receiving federal financial assistance. Both the federal and state laws do not apply to an educational institution that is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

The Equity in Higher Education Act requests the Trustees of the California State University, the Regents of the University of California, and the governing board of each community college district to designate an employee at each campus as a point of contact for the needs of lesbian, gay, bisexual, and transgender faculty, staff, and students.

This bill instead would require the Trustees of the California State University and the governing board of each community college district to designate an employee at each campus 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. The bill, among other things, would prohibit a designated employee from being considered a responsible employee, as that term is used for purposes of certain existing requirements regarding the reporting of, and campus response to, allegations of "sexual harassment," as defined for purposes of the Equity in Higher Education Act. The bill would request the University of California to comply with the provisions described in this paragraph. By imposing new duties on community college districts, the bill would impose a state-mandated local program.

This bill would revise the definition of "sexual orientation" for purposes of the Equity in Higher Education Act, as specified.

(2) Existing law requires an institution that has an exemption from either the Equity in Higher Education Act or Title IX to make specified disclosures to the institution's current and prospective students, faculty members, and employees, and to the Student Aid Commission, concerning the institution's basis for having the exemption, and requires the commission to collect the information it receives and to post and maintain a list on the commission's internet website of all institutions with the exemption and their respective bases for having the exemption.

This bill would, beginning with the 2026–27 school year, require the commission to provide a written notice to students who receive state financial aid regarding, among other things, whether their postsecondary educational institution has an exemption from either the Equity in Higher Education Act or Title IX on file with the commission.

(3) Existing law requests the Trustees of the California State University, the Regents of the University of California, and the governing board of each community college district to adopt and publish policies on harassment, intimidation, and bullying to be included within the rules and regulations governing student behavior within these segments.

This bill instead would require the Trustees of the California State University and the governing board of each community college district, and would request the University of California, to adopt and publish policies on harassment, intimidation, and bullying, and to include these policies within the rules and regulations governing student behavior within these segments. By imposing new duties on community college districts, the bill would impose a state-mandated local program.

(4) 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 66262.7 of the Education Code is amended to read:

66262.7. “Sexual orientation” means a person’s physical, emotional, and romantic attraction to other people. “Sexual orientation” includes, but is not limited to, heterosexuality, homosexuality, bisexuality, asexuality, and pansexuality.

SEC. 2. Section 66271.2 of the Education Code is amended to read:

66271.2. (a) The Trustees of the California State University and the governing board of each community college district shall 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. At a minimum, the name and contact information of that designated employee shall be published on the internet website for the respective campus, and shall be included in any printed and online campus directories.

(b) An employee designated as a campus point of contact pursuant to subdivision (a) shall not be considered a responsible employee for purposes of Section 66281.8. An employee designated as a campus point of contact pursuant to subdivision (a) shall not disclose confidential information provided to them by faculty, staff, or students about any alleged act of sexual harassment, sexual violence, or discrimination without the prior written consent of the person who provided the information to the designated employee.

(c) (1) Notice provided to an employee designated as a campus point of contact pursuant to subdivision (a), or a service provided by the designated employee, pursuant to this section regarding an alleged act of sexual harassment, sexual violence, or discrimination, shall not be construed as actual or constructive notice to the public postsecondary educational institution of that alleged act for purposes of investigations under Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.).

(2) Paragraph (1) shall only be construed in a manner that is consistent with Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.).

(d) The University of California is requested to comply with this section. This section shall apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, make it applicable.

SEC. 3. Section 66290.2 of the Education Code is amended to read:

66290.2. (a) (1) Beginning with the 2017–18 school year, each postsecondary educational institution in this state that claims an exemption pursuant to Section 901(a)(3) of the federal Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681(a)(3)) shall submit to the Student Aid Commission copies of all materials submitted to, and received from, a state or federal agency concerning the granting of the exemption.

(2) Beginning with the 2017–18 school year, each postsecondary educational institution in this state not described in paragraph (1) that has an exemption pursuant to Section 66271 shall submit to the Student Aid Commission its basis for having the exemption.

(b) The Student Aid Commission shall collect the information received pursuant to subdivision (a) and post and maintain a list on the commission's internet website of the institutions that have claimed the exemption with their respective bases for claiming or having the exemption.

(c) Beginning with the 2026–27 school year, the Student Aid Commission shall provide a written notice to students who receive state financial aid regarding whether their postsecondary educational institution has an exception pursuant to subdivision (a) on file with the commission. The written notice shall inform students of their right to report discrimination to the United States Department of Education's Office for Civil Rights, and shall include the contact information, including the telephone number, office location, and email address, for the United States Department of Education's Office for Civil Rights.

SEC. 4. Section 66302 of the Education Code is amended to read:

66302. (a) The Trustees of the California State University and the governing board of each community college district shall adopt and publish policies on harassment, intimidation, and bullying, and shall include these policies within the rules and regulations governing student behavior within their respective segments of public postsecondary education.

(b) It is the intent of the Legislature that rules and regulations governing student conduct be published, at a minimum, on the internet website of each public postsecondary educational campus and as part of any printed material covering those rules and regulations within the respective public postsecondary education system.

(c) The University of California is requested to comply with this section. This section shall apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, make it applicable.

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.