

AMENDED IN ASSEMBLY MAY 8, 2014
AMENDED IN ASSEMBLY APRIL 24, 2014
AMENDED IN ASSEMBLY APRIL 7, 2014
AMENDED IN ASSEMBLY MARCH 19, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2350

Introduced by Assembly Member Bonilla
(Coauthors: Assembly Members Garcia, Gonzalez, Skinner, and Waldron)

February 21, 2014

An act to ~~amend Section 66281.5 of~~ *add Section 66281.7* to the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2350, as amended, Bonilla. Postsecondary education: Equity in Higher Education Act: prevention of pregnancy discrimination.

~~(1) Existing~~

Existing law, known as 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. Provisions of the act apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make a provision applicable.

A portion of the Donahoe Higher Education Act known as the Equity in Higher Education Act declares, among other things, that it is the policy of the State of California that all persons, regardless of their sex,

should enjoy freedom from discrimination of any kind in the postsecondary educational institutions of the state.

This bill would express various legislative findings and declarations relating to pregnancy discrimination. The bill would add to the Equity in Higher Education Act a provision specifying that this policy of freedom from discrimination includes, but is not limited to, freedom from pregnancy discrimination as described in a specified federal statute.

This bill would prohibit postsecondary educational institutions, including the faculty, staff, or other employees of these institutions, from requiring a graduate student to take a leave of absence, withdraw from the graduate program, or limit his or her graduate studies solely due to pregnancy or pregnancy-related issues. The bill would require postsecondary educational institutions, including the faculty, staff, or other employees of these institutions, to reasonably accommodate pregnant graduate students, as specified, so that they may complete their graduate courses of study and research. ~~The bill would require the maintenance of the student status and standing in the graduate program of graduate students who choose to take leaves of absence because they are pregnant or have recently given birth. The bill would require postsecondary educational institutions to allow graduate students, if they so choose, to take leaves of absence of at least 2 academic terms because they are pregnant or have recently given birth, unless there is a medical reason for a longer absence. The~~

~~The bill would also allow these students at least a graduate student who chooses to take a leave of absence because she is pregnant or has recently given birth a period consistent with the policies of the postsecondary educational institution, or a period of 12 additional months, whichever period is longer, to prepare for and take preliminary and qualifying examinations and an extension of at least 12 months toward normative time to degree while they are in candidacy for a graduate degree, unless a longer extension is medically necessary.~~

~~(2) The Equity in Higher Education Act requires each postsecondary educational institution in the state to have a written policy on sexual harassment.~~

~~The bill would provide that an enrolled graduate student in good academic standing who chooses to take a leave of absence because she is pregnant or has recently given birth would return to her program in good academic standing following a leave period of a duration determined by the postsecondary educational institution, or a period of 2-academic-year semester terms or 3-academic-year trimester terms,~~

whichever period is longer, subject to the reasonable administrative requirements of the institution, unless there is a medical reason for a longer absence, in which case her standing in the graduate program would be maintained during that period of absence.

This

The bill would require ~~the~~ each postsecondary educational institution to have a written policy on ~~sexual harassment to include pregnancy discrimination and~~ procedures for addressing pregnancy discrimination complaints under Title IX ~~pregnancy discrimination complaints and the name and contact information of the institution's Title IX compliance officer.~~ or this bill. The bill would require a copy of this policy to be made available to faculty, staff, and employees in their required training, and made available to all students attending orientation sessions at a postsecondary educational institution.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Title IX of the Education Amendments of 1972 (20 U.S.C.
- 4 Sec. 1681, et seq.) is best known for providing equity to female
- 5 and male athletics, but it also specifically addresses pregnancy
- 6 discrimination.
- 7 (b) In 2012, the Obama administration began an initiative to
- 8 increase the number of women in the science, technology,
- 9 engineering, and mathematics (STEM) fields. President Obama
- 10 tasked the United States Department of Education to lead an
- 11 initiative with the Department of Justice, the Department of Energy,
- 12 the National Aeronautics and Space Administration, the National
- 13 Science Foundation, and the Department of Health and Human
- 14 Services to create a common guidance program to ensure that grant
- 15 recipients are complying with Title IX.
- 16 (c) The federal initiative focuses on women scientists, but Title
- 17 IX compliance is also incredibly important across all academic
- 18 fields at all colleges and universities.
- 19 (d) Preventing pregnancy discrimination in the STEM fields is
- 20 particularly important because it is known to hinder the
- 21 advancement of women in these fields. For example, even though

1 women represent between 35 and 40 percent of graduate students
2 in chemistry, less than 13 percent of faculty at the top 50
3 universities in the United States are women.

4 (e) According to a survey of doctorate recipients by the National
5 Science Foundation, “women who are married with children in
6 the sciences are 35 percent less likely to enter a tenure track
7 position after receipt of their Ph.D. than married men with children,
8 and they are 27 percent less likely than their male counterparts to
9 achieve tenure upon entering a tenure track job.”

10 (f) The same phenomenon has appeared in non-STEM fields,
11 as studies indicate that married mothers who earn Ph.D.s are 28
12 percent less likely to obtain a tenure track job than are married
13 men with children who earn Ph.D.s.

14 (g) While attending graduate school, many graduate students
15 move in and out of university employment. This affects their
16 eligibility for benefits and pregnancy accommodations, except for
17 their protections under Title IX.

18 (h) Many universities and colleges are not in compliance with
19 Title IX, and students are unaware that they are protected from
20 pregnancy discrimination.

21 (i) Preventing pregnancy discrimination against graduate
22 students is important for both genders so that both men and women
23 can bond with new children and have a framework with which to
24 approach these discussions with their academic institutions.

25 *SEC. 2. Section 66281.7 is added to the Education Code,*
26 *immediately following Section 66281.5, to read:*

27 *66281.7. (a) It is the policy of the State of California, pursuant*
28 *to Section 66251, that all persons, regardless of their sex, should*
29 *enjoy freedom from discrimination of any kind, including, but not*
30 *limited to, pregnancy discrimination as described in Title IX of*
31 *the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.),*
32 *in the postsecondary educational institutions of the state.*

33 *(b) Each of the following requirements shall be applicable to*
34 *postsecondary educational institutions in this state:*

35 *(1) A postsecondary educational institution, including the*
36 *faculty, staff, or other employees of the institution, shall not require*
37 *a graduate student to take a leave of absence, withdraw from the*
38 *graduate program, or limit his or her graduate studies solely due*
39 *to pregnancy or pregnancy-related issues.*

1 (2) A postsecondary educational institution, including the
2 faculty, staff, or other employees of the institution, shall reasonably
3 accommodate pregnant graduate students so they may complete
4 their graduate courses of study and research. Reasonable
5 accommodation within the meaning of this subdivision may include,
6 but is not necessarily limited to, allowances for the pregnant
7 student's health and safety, such as allowing the student to
8 maintain a safe distance from hazardous substances, allowing the
9 student to make up tests and assignments that are missed for
10 pregnancy-related reasons, or allowing a student to take a leave
11 of absence. Reasonable accommodation shall include the excusing
12 of absences that are medically necessary, as required under Title
13 IX.

14 (3) A graduate student who chooses to take a leave of absence
15 because she is pregnant or has recently given birth shall be allowed
16 a period consistent with the policies of the postsecondary
17 educational institution, or a period of 12 additional months,
18 whichever period is longer, to prepare for and take preliminary
19 and qualifying examinations and an extension of at least 12 months
20 toward normative time to degree while in candidacy for a graduate
21 degree, unless a longer extension is medically necessary.

22 (4) An enrolled graduate student in good academic standing
23 who chooses to take a leave of absence because she is pregnant
24 or has recently given birth shall return to her program in good
25 academic standing following a leave period of a duration
26 determined by the postsecondary educational institution or of up
27 to two-academic-year semester terms or three-academic-year
28 trimester terms, whichever period is longer, subject to the
29 reasonable administrative requirements of the institution, unless
30 there is a medical reason for a longer absence, in which case her
31 standing in the graduate program shall be maintained during that
32 period of absence.

33 (c) Each postsecondary educational institution shall have a
34 written policy on pregnancy discrimination and procedures for
35 addressing pregnancy discrimination complaints under Title IX
36 or this section. A copy of this policy shall be made available to
37 faculty, staff, and employees in their required training. This policy
38 shall be made available to all students attending orientation
39 sessions at a postsecondary educational institution.

1 ~~SEC. 2. Section 66281.5 of the Education Code is amended to~~
2 ~~read:~~

3 ~~66281.5. (a) (1) (A) It is the policy of the State of California,~~
4 ~~pursuant to Section 66251, that all persons, regardless of their sex,~~
5 ~~should enjoy freedom from discrimination of any kind, including,~~
6 ~~but not limited to, pregnancy discrimination as described in Title~~
7 ~~IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681,~~
8 ~~et seq.), in the postsecondary educational institutions of the state.~~

9 ~~(B) Each of the following requirements shall be applicable to~~
10 ~~postsecondary educational institutions in this state:~~

11 ~~(i) A postsecondary educational institution, including the faculty,~~
12 ~~staff, or other employees of the institution, shall not require a~~
13 ~~graduate student to take a leave of absence, withdraw from the~~
14 ~~graduate program, or limit his or her graduate studies solely due~~
15 ~~to pregnancy or pregnancy-related issues.~~

16 ~~(ii) A postsecondary educational institution, including the~~
17 ~~faculty, staff, or other employees of the institution, shall reasonably~~
18 ~~accommodate pregnant graduate students so they may complete~~
19 ~~their graduate courses of study and research. Reasonable~~
20 ~~accommodation within the meaning of this clause may include,~~
21 ~~but is not necessarily limited to, allowances for the pregnant~~
22 ~~student's health and safety, such as allowing the student to maintain~~
23 ~~a safe distance from hazardous substances and allowing the student~~
24 ~~to make up tests and assignments that are missed for~~
25 ~~pregnancy-related reasons. These accommodations may also~~
26 ~~include the excusing of absences that are medically necessary, as~~
27 ~~is already required under Title IX.~~

28 ~~(iii) A graduate student who chooses to take a leave of absence~~
29 ~~because she is pregnant or has recently given birth may maintain~~
30 ~~her status as a student during that leave of absence.~~

31 ~~(iv) A graduate student who chooses to take a leave of absence~~
32 ~~because she is pregnant or has recently given birth shall maintain~~
33 ~~her standing in the graduate program during an absence for a period~~
34 ~~consistent with the policies of the postsecondary educational~~
35 ~~institution, or for a period of two academic terms, whichever period~~
36 ~~is longer, unless there is a medical reason for a longer absence, in~~
37 ~~which case her standing in the graduate program shall be~~
38 ~~maintained during that period of absence.~~

39 ~~(v) A graduate student who chooses to take a leave of absence~~
40 ~~because she is pregnant or has recently given birth shall be allowed~~

1 a period consistent with the policies of the postsecondary
2 educational institution, or a period of 12 additional months,
3 whichever period is longer, to prepare for and take preliminary
4 and qualifying examinations and an extension of at least 12 months
5 toward normative time to degree while in candidacy for a graduate
6 degree, unless a longer extension is medically necessary.

7 (2) ~~The purpose of subdivisions (b) to (g), inclusive, is to~~
8 ~~provide notification of the prohibition against sexual harassment~~
9 ~~and pregnancy discrimination as forms of sexual discrimination~~
10 ~~and to provide notification of available remedies.~~

11 (b) ~~Each postsecondary educational institution in the State of~~
12 ~~California shall have a written policy on sexual harassment. It is~~
13 ~~the intent of the Legislature that each educational institution in~~
14 ~~this state include this policy in its regular policy statement rather~~
15 ~~than distribute an additional written document. This written policy~~
16 ~~shall include procedures for Title IX pregnancy discrimination~~
17 ~~complaints.~~

18 (e) ~~The postsecondary educational institution's written policy~~
19 ~~on sexual harassment shall include information on where to obtain~~
20 ~~the specific rules and procedures for reporting charges of sexual~~
21 ~~harassment and for pursuing available remedies. The written policy~~
22 ~~shall include the name and contact information of the institution's~~
23 ~~Title IX compliance officer.~~

24 (d) ~~A copy of the postsecondary educational institution's written~~
25 ~~policy on sexual harassment shall be displayed in a prominent~~
26 ~~location in the main administrative building or other area of the~~
27 ~~campus or schoolsite. "Prominent location" means that location,~~
28 ~~or those locations, in the main administrative building or other~~
29 ~~area where notices regarding the institution's rules, regulations,~~
30 ~~procedures, and standards of conduct are posted.~~

31 (e) ~~A copy of the postsecondary educational institution's written~~
32 ~~policy on sexual harassment, as it pertains to students, shall be~~
33 ~~provided as part of any orientation program conducted for new~~
34 ~~students at the beginning of each quarter, semester, or summer~~
35 ~~session, as applicable.~~

36 (f) ~~A copy of the postsecondary educational institution's written~~
37 ~~policy on sexual harassment shall be provided for each faculty~~
38 ~~member, all members of the administrative staff, and all members~~
39 ~~of the support staff at the beginning of the first quarter or semester~~
40 ~~of the school year, or at the time that a new employee is hired.~~

1 ~~(g) A copy of the postsecondary educational institution's written~~
2 ~~policy on sexual harassment shall appear in any publication of the~~
3 ~~institution that sets forth the comprehensive rules, regulations,~~
4 ~~procedures, and standards of conduct for the institution.~~

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