

AMENDED IN ASSEMBLY JUNE 23, 2016

AMENDED IN ASSEMBLY JUNE 13, 2016

AMENDED IN SENATE MAY 4, 2016

AMENDED IN SENATE APRIL 11, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1146

**Introduced by Senator Lara
(Coauthor: Senator Leno)**

February 18, 2016

An act to ~~amend Section 66271 of, and to add Sections 66290.1, 66290.2, and 66292.8 to, and to repeal and add Section 66271 of,~~ the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 1146, as amended, Lara. Postsecondary education: nondiscrimination.

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 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. Title IX provides a private right of action for violation of its provisions by a public postsecondary educational institution.

This bill would ~~limit the religious exemption from~~ *provide that a religious educational institution is subject to the provisions of the Equity in Higher Education Act to certain educational programs and activities of a postsecondary educational institution that is controlled by a religious organization. *except with respect to prohibitions concerning religion, as specified.* The bill would require an institution that claims 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 claim for the exemption. The bill would require the commission to collect the information it receives and post and maintain a list on the commission’s Internet Web site of all institutions claiming the exemption and their respective bases for claiming the exemption. *The bill would specify that the changes made by the bill shall not be construed to affect the operation of the Cal Grant Program and other provisions of law that prohibit discrimination on the basis of certain characteristics, or to prohibit students from seeking civil remedies, as specified.* The bill would make the provisions of the Equity in Higher Education Act severable.*

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. Section 66271 of the Education Code is repealed.
- 2 ~~66271. This chapter shall not apply to an educational institution~~
- 3 ~~that is controlled by a religious organization if the application~~
- 4 ~~would not be consistent with the religious tenets of that~~
- 5 ~~organization.~~
- 6 SEC. 2. Section 66271 is added to the Education Code, to read:
- 7 66271. (a) This chapter shall apply to a religious educational
- 8 institution except with respect to prohibitions concerning religion.
- 9 (b) Nothing in this section shall be construed to permit
- 10 discrimination on the basis of disability, gender, gender identity,
- 11 gender expression, nationality, race or ethnicity, sexual orientation,
- 12 or any other characteristic that is contained in the definition of

1 *hate crimes set forth in Section 422.55 of the Penal Code, including*
2 *the perception that the person has any of those characteristics or*
3 *that the person is associated with a person who has, or is perceived*
4 *to have, any of those characteristics.*

5 SECTION 1. ~~Section 66271 of the Education Code is amended~~
6 ~~to read:~~

7 ~~66271. (a) This chapter shall not apply to any of the following~~
8 ~~educational programs or activities offered by an educational~~
9 ~~institution that is controlled by a religious organization, if the~~
10 ~~application of this chapter would not be consistent with the~~
11 ~~religious tenets of that organization:~~

12 ~~(1) Programs or activities to prepare students to become~~
13 ~~ministers of the religion:~~

14 ~~(2) Programs or activities to enter upon some other vocation of~~
15 ~~the religion:~~

16 ~~(3) Programs or activities to teach theological subjects pertaining~~
17 ~~to the religion:~~

18 ~~(b) Nothing in this section shall limit an institution that is~~
19 ~~controlled by a religious organization from requiring a student to~~
20 ~~participate in religiously based curriculum or activities as a~~
21 ~~condition of his or her attendance or graduation:~~

22 —

23 ~~SEC. 2:~~

24 SEC. 3. Section 66290.1 is added to the Education Code, to
25 read:

26 66290.1. (a) Each postsecondary educational institution in this
27 state that claims an exemption pursuant to Section 901(a)(3) of
28 the federal Title IX of the Education Amendments of 1972 (20
29 U.S.C. Sec. 1681(a)(3)) or Section 66271 shall disclose to current
30 and prospective students, faculty members, and employees the
31 basis for claiming the ~~exemption~~: *exemption and the scope of the*
32 *allowable activities provided by the exemption.*

33 (b) The disclosure required in subdivision (a) shall be made in
34 all of the following ways:

35 (1) The disclosure shall be displayed in a prominent location of
36 the campus or school site. “Prominent location” means that
37 location, or those locations, in the main administrative building or
38 other area where notices regarding the institution’s rules,
39 regulations, procedures, and standards of conduct are posted.

1 (2) The disclosure shall be included in written materials sent to
2 prospective students seeking admission to the postsecondary
3 educational institution.

4 (3) The disclosure shall be provided as part of orientation
5 programs conducted for new students at the beginning of each
6 quarter, semester, or summer session, as applicable.

7 (4) The disclosure shall be provided to each faculty member,
8 member of the administrative staff, and member of the support
9 staff at the beginning of the first quarter or semester of each school
10 year. The disclosure shall be provided to each new employee upon
11 his or her hire.

12 (5) The disclosure shall be included in any publication of the
13 institution that sets forth the comprehensive rules, regulations,
14 procedures, and standards of conduct for the institution.

15 ~~SEC. 3.~~

16 *SEC. 4.* Section 66290.2 is added to the Education Code, to
17 read:

18 66290.2. (a) Each postsecondary educational institution in this
19 state that claims an exemption pursuant to Section 901(a)(3) of
20 the federal Title IX of the Education Amendments of 1972 (20
21 U.S.C. Sec. 1681(a)(3)) or Section 66271 shall submit to the
22 Student Aid Commission copies of all materials submitted to, and
23 received from, a state or federal agency concerning the granting
24 of the exemption.

25 (b) The Student Aid Commission shall collect the information
26 received pursuant to subdivision (a) and post and maintain a list
27 on the commission's Internet Web site of the institutions that have
28 claimed the exemption with their respective bases for claiming the
29 exemption.

30 ~~SEC. 4.~~

31 *SEC. 5.* Section 66292.8 is added to the Education Code, to
32 read:

33 66292.8. (a) *The changes to this chapter made by the act*
34 *adding this section shall not be construed to affect either the*
35 *current operation of the Cal Grant program established pursuant*
36 *to Chapter 1.7 (commencing with Section 69430) of Part 42 or*
37 *other provisions of law that prohibit discrimination on the basis*
38 *of disability, gender, gender identity, gender expression,*
39 *nationality, race or ethnicity, sexual orientation, or any other*
40 *characteristic that is contained in the definition of hate crimes set*

1 *forth in Section 422.55 of the Penal Code, including the perception*
2 *that any person has, or is perceived to have, any of those*
3 *characteristics.*

4 *(b) The changes to this chapter made by the act adding this*
5 *section shall not be construed to prohibit students from seeking*
6 *civil remedies under the provisions of this chapter for*
7 *discrimination.*

8 *(c) The provisions of this chapter are severable. If any provision*
9 *of this chapter or its application is held invalid, that invalidity shall*
10 *not affect other provisions or applications that can be given effect*
11 *without the invalid provision or application.*

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