

Date of Hearing: April 22, 2014

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Das Williams, Chair

AB 2350 (Bonilla) – As Amended: April 7, 2014

SUBJECT: Postsecondary education: Equity in Higher Education Act: prevention of pregnancy discrimination.

SUMMARY: Prohibits postsecondary educational institutions, including 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; and, expresses various legislative findings and declarations relating to pregnancy discrimination, specifically women in science, technology, engineering, and mathematics (STEM) graduate programs. Specifically, this bill:

- 1) Expresses the Legislature finds and declares all of the following:
 - a) Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.) is best known for providing equity to female and male athletics, but it also specifically addresses pregnancy discrimination;
 - b) In 2012, the Obama administration began an initiative to increase the number of women in the STEM fields; President Obama tasked the United States Department of Education to lead an initiative with the Department of Justice, the Department of Energy, the National Aeronautics and Space Administration, the National Science Foundation, and the Department of Health and Human Services to create a common guidance program to ensure that grant recipients are complying with Title IX;
 - c) The federal initiative focuses on women scientists, but Title IX compliance is also incredibly important across all academic fields at all colleges and universities;
 - d) Preventing pregnancy discrimination in the STEM fields is particularly important because it is known to hinder the advancement of women in these fields. For example, even though women represent between 35% and 40% of graduate students in chemistry, less than 13% of faculty at the top 50 universities in the United States are women;
 - e) According to a survey of doctorate recipients by the National Science Foundation, “women who are married with children in the sciences are 35% less likely to enter a tenure track position after receipt of their Ph.D. than married men with children, and they are 27% less likely than their male counterparts to achieve tenure upon entering a tenure track job”;
 - f) The same phenomenon has appeared in non-STEM fields, as studies indicate that married mothers who earn Ph.D.s are 28% less likely to obtain a tenure track job than are married men with children who earn Ph.D.s;

- g) While attending graduate school, many graduate students move in and out of university employment. This affects their eligibility for benefits and pregnancy accommodations, except for their protections under Title IX;
 - h) Many universities and colleges are not in compliance with Title IX, and students are unaware that they are protected from pregnancy discrimination; and,
 - i) Preventing pregnancy discrimination against graduate students is important for both genders so that both men and women can bond with new children and have a framework with which to approach these discussions with their academic institutions.
- 2) Specifies the composition of a postsecondary educational institution includes, the faculty, staff, or other employees of the institution and that collectively they shall not require 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; and, that they shall reasonably accommodate pregnant graduate students so that the students may complete their graduate courses of study and research.
 - 3) Specifies that the reasonable accommodations may also include the excusing of absences that are medically necessary, as is already required under Title IX.
 - 4) Specifies that a student who chooses to take a leave of absence because she is pregnant or has recently given birth may maintain her status as a student during that leave of absence; and, shall maintain her standing in the graduate program during an absence for a period consistent with the policies of the postsecondary educational institution, or for a period of two academic terms, whichever period is longer, unless there is a medical reason for a longer absence, in which case her standing in the graduate program shall be maintained during that period of absence.
 - 5) Authorizes a graduate student who chooses to take a leave of absence because she is pregnant or has recently given birth to be allowed a period consistent with the policies of the postsecondary educational institutions, or a period of 12 additional months, whichever period is longer, to prepare for and pass preliminary and qualifying examinations and an extension of at least 12 months toward normative time to degree while in candidacy for a graduate degree, unless a longer extension is medically necessary.
 - 6) Specifies that each postsecondary educational institution in the state shall include and provide notification, as specified, on its prohibition against sexual harassment and pregnancy discrimination as forms of sexual discrimination.
 - 7) Specifies that each postsecondary educational institution's written policy on sexual harassment shall include procedures for Title IX pregnancy discrimination complaints; and, shall include the name and contact information of the institution's Title IX compliance officer.
 - 8) Makes technical and clarifying changes to existing law.

EXISTING LAW establishes the Equity in Higher Education Act to ensure equal rights and opportunities in postsecondary educational institutions of the state, to prohibit contrary policies,

and provide remedies for violations. Provisions governing sex equity establish, among other requirements, that institutions have written policies on sexual harassment that provide procedures for reporting charges of sexual harassment and pursuing remedies (Education Code § 66281.5).

FISCAL EFFECT: Unknown

COMMENTS: Background. Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681, et seq.) among many things, provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. The U.S. Department of Education's regulations implementing Title IX (34 C. F. R. § 106.40(a) and (b), et seq.) specifically prohibits discrimination against a student based on pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery from any of these conditions. Under Title IX, it is illegal for schools to exclude a pregnant student from participating in any part of an educational program, including, but not limited to, specific classes, extracurricular programs, honor societies, and opportunities for student leadership. Additionally, a school must make adjustments to its educational program in order to ensure a pregnant student has access to its programs.

Women in STEM. According to the 2010 "Survey of Doctorate Recipients," conducted by the National Science Foundation, the desire to start a family is one of the biggest reasons women exit the STEM pipeline. The survey found that even though women represent between 35% and 40% of graduate students in chemistry, less than 13% of faculty members at the top 50 universities are women. Additionally, the survey found that married women with children are 35% less likely to begin a tenure track faculty position in a STEM field after earning their Ph.D. than married men with children.

According to the University of California at Berkeley Law Earl Warren Institute on Law and Social Policy (Institute), in the STEM fields, preventing pregnancy discrimination is of utmost importance because women are not advancing in the field at the same rates as men, largely because of pregnancy and family concerns. The Institute finds that women now represent a large part of the talent pool for research science, but many data sources indicate that they are more likely than men to "leak" out of the pipeline in the sciences before obtaining tenure at a college or university. The Institute opines that Title IX protection is particularly vital for working students because Title IX also requires pregnancy leave for educational programs as well as the workplace.

Purpose of the bill. According to the author, California invests millions of dollars training graduate students in STEM fields, but many of the state's universities are not retaining these students nor supporting them in their endeavors to work in STEM fields, in part because they are not in compliance with Title IX.

The author states, "AB 2350 seeks to increase the number of women in STEM fields by raising awareness that pregnancy discrimination is included in the federal Title IX standards. This bill aims to increase the number of women that stay in STEM fields after graduation and who will serve as mentors for women who enter STEM fields." The author contends that this measure highlights why pregnancy discrimination is still a critical problem in higher education in the present day. Additionally, the author argues that this measure will help to ensure that graduate students are aware that Title IX includes more than just athletic equity, but equitable treatment in

the event of pregnancy as well. The author states, "Increasing awareness is the first step to retaining our female graduate students and developing women scientists."

Clarifying amendments. As presently drafted, the measure will allow a graduate student who chooses to take a leave of absence because she is pregnant or has recently given birth to be allowed 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 pass* preliminary and qualifying examinations.

According to the author, the intent of the aforementioned is not to create inequity between male and female STEM graduate students, but to ensure female STEM graduate students, as specified, be given the necessary time *to take* their exams within the additional time they are given to prepare. **Committee staff recommends that the bill be amended to delete the reference to the additional time given *to pass* preliminary and qualifying examinations and instead be replaced with: and take preliminary and qualifying examinations.**

Additionally, as presently drafted, the measure references the terms "status" and "standing" without defining them and throughout the measure interchanges the use of the two words; this could result in ambiguity and a varied way of how it will be implemented and enforced on various campuses of higher education. Committee staff recommends that the author continue to work with staff and affected stakeholders in order to come up with clarifying language.

REGISTERED SUPPORT / OPPOSITION:

Support

American Civil Liberties Union of California
 California Catholic Conference of Bishops
 California Communities United Institute
 California Conference of the Amalgamated Transit Union
 California Conference of Machinists
 California Nurses Association
 California Science Teachers Association
 California Teamsters Public Affairs Council
 California Women's Law Center
 Center for WorkLife Law – University of California Hastings College of the Law
 Engineers & Scientists, IFPTE Local 20
 International Longshore and Warehouse Union, Coast Division
 Planned Parenthood
 Professional & Technical Engineers, IFPTE Local 21
 UAW Local 4123 (co-sponsor)
 UAW Local 5810 (co-sponsor)
 UNITE HERE
 University of California at Berkeley Law Earl Warren Institute on Law and Social Policy
 University of California Student Association
 University Council – American Federation of Teachers
 Utility Workers Union of America, Local 132
 Women's International League for Peace and Freedom (Santa Cruz Branch)
 2 Individuals

Opposition

None on file.

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