

Date of Hearing: April 16, 2024

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 2608 (Gabriel) – As Introduced February 14, 2024

SUBJECT: Postsecondary education: sexual violence and sexual harassment: training

SUMMARY: Updates existing sexual violence and sexual harassment prevention training for students to include training on drug-facilitated sexual assault, as defined and requires the California Community Colleges (CCC), the California State University (CSU), and the University of California (UC) to consider updating the sexual violence and sexual harassment prevention training for students every two years, beginning on September 1. Specifically, **this bill:**

- 1) Permits the CCC, CSU, and UC, beginning on September 1, and every two years thereafter, to consider updating the sexual violence and sexual harassment training provided to students every year.
- 2) Requires by September 1, the annual sexual violence and sexual harassment training provided to students on CCC, CSU, and UC campuses to include the following topics:
 - a) How to recognize if a person is at risk of drug-facilitated sexual assault, including the common symptoms following drug consumption and intoxication, common myths and facts regarding drug-facilitated sexual assault;
 - b) Effective measures that can be taken to prevent involuntary drug consumption and ways to respond to circumstances where a person may be involuntarily intoxicated or at risk for drug-facilitated sexual assault; and,
 - c) Information related to confidential support and care resources for emergency situations that arise as a result of an act of sexual violence or sexual harassment or both, including, but not limited to, information on medical and transportation services, forensic examination sites, and to the extent available, rape crisis centers on campus or within the surrounding community for the campus.
- 3) Makes technical and conforming changes.

EXISTING LAW:

- 1) Mandates, by September 1, 2024, for the California Community Colleges (CCC), the California State University (CSU), and any independent institution of higher education or private postsecondary education institutions that receives state financial assistance to provide annual sexual harassment and sexual violence prevention training to students, as specified. Requests the UC to provide the same aforementioned annual training to students (Education Code (EDC) Section 67385.7).
- 2) Defines sexual harassment and sexual violence as the following:
 - a) “Sexual harassment” as sexual battery, sexual violence, sexual exploitation, and unwelcomed sexual advances request for sexual favors and other verbal, visual, or

physical conduct of a sexual nature made by someone from or in the work or educational setting in which specific conditions are met. Clarifies sexual harassment of students is a form of sex discrimination prohibited by the Equity in Higher Education Act; and,

- b) “Sexual violence” as a physical sexual act perpetrated against a person without the affirmed consent of the survivor, as defined. Physical sexual acts include rape, sexual batter, sexual exploitation, prostituting another person, trafficking another person, recording images of the person during the act without consent, distributions of said images without consent, or viewing a person’s intimate moments in which privacy is expected without consent, as defined (EDC Section 66262.5).

FISCAL EFFECT: Unknown

COMMENTS: *Author’s intent.* As disclosed by the author, “Attending an institution of higher education is one of the most effective tools for Californians to achieve financial security and build their future. Our state must confront roadblocks and challenges that could complicate students’ ability to succeed or cause them significant harm while working towards an education. The prevalence of sexual violence and harassment on college campuses today is a significant threat to students’ ability to succeed professionally and academically and to their physical and mental health. AB 2608 will strengthen preventative measures against sexual assault on college campuses by requiring critical updates to student trainings for institutions of higher education. This will ensure trainings provide students the resources they need to stay safe on campus and will contribute to promoting Title IX rights and awareness.”

As further explained by the author, “AB 2608 will strengthen preventative measures against sexual assault on college campuses by requiring critical updates to student trainings for institutions of higher education. These updates include:

- 1) How to recognize if a person is at risk of drug-facilitated sexual assault, including common symptoms following drug consumption and intoxication.
- 2) Effective measures can be taken to prevent involuntary drug consumption and ways to respond to circumstances where a person may be involuntarily intoxicated and at risk of drug-facilitated sexual assault.
- 3) As part of the topic covered relating to common facts and myths about the causes of sexual violence and sexual harassment, include common facts and myths regarding drug-facilitated sexual assault.
- 4) Information related to confidential support and care resources for emergency situations that arise because of an act of sexual violence or sexual harassment, or both, including, but not limited to, contact information and the availability of confidential medical and transportation services, forensic examination sites, and, to the extent available, rape crisis centers on campus or within the surrounding community of the campus.
- 5) A requirement for the CSUs, CCCs, and other post-secondary/higher education institutions, and request for the UCs, to consider updates to the training every two years.”

By providing this information to students during their annual training, students will be well prepared to handle situations where drug-facilitated sexual assault might occur and victims will know a wider array of resources they can use with and without anonymity.”

Sexual assault on postsecondary education institutions. In 2020, the Association of American Universities published the results of two surveys conducted in 2015 and in 2019 which examined the prevalence of sexual assault and misconduct at colleges and universities throughout the United States. The surveys found the following:

- The rate of nonconsensual sexual contact by physical force or inability to consent for undergraduate women ranged from 14% to 32%;
- The rate of nonconsensual sexual contact by physical force or inability to consent increased from 2015 to 2019 by 3% for undergraduate women and by 2.4% for undergraduate men.
- Among all students 41.8% reported experiencing at least one sexually harassing behavior since enrolling in college.
- 37.1% of students felt they were very or extremely knowledgeable about the definition of sexual assault and where to get help, but only 31.5% felt they knew how to report it.

In January 2016, under the direction of the Obama Administration, the Bureau of Justice Statistics Research and Development Series published a report based which contained data from campus climate surveys conducted on university campuses throughout the United States¹. The report contained the following data elements:

- 1) One in five women and one in 14 men experienced sexual assault while in college;
- 2) one in four transgender students and more than one in three bisexual students experienced sexual assault while in college; and,
- 3) In 59% of incidents of rape and in 58% of incidents of sexual battery, the survivor was under the influence of alcohol or drugs.

In January 2012, the U.S. Department of Justice’s Office for Victims of Crimes, Office on Violence Against Women, and Office of Community Orientated Policing Services in partnership with various entities, hosted a forum to discuss how to prevent and address campus sex crimes. In the report following the forum, a general best practice was determined that providing education for students, faculty, and staff on sex crimes specifically on the definition and circumstances in which an individual would be not consenting was tool to be used to prevent sex crimes on campus.²

Consent. SB 967 (De León), Chapter 748, Statutes of 2014, required the CCC, CSU, UC, and California independent colleges and universities to adopt a policy concerning campus sexual

¹ [Campus Climate Survey Validation Study Final Technical Report \(ojp.gov\)](#)

² [Promoting Effective Criminal Investigations of Campus Sex Crimes \(ojp.gov\)](#)

violence, domestic violence, dating, violence, and stalking that included an affirmative consent standard.

The affirmative consent standard enumerated in EDC Section 67386 includes that a person is unable to give consent if the person is asleep or unconscious, is incapacitated due to the influence of drugs, alcohol, or medication, and the complainant was unable to communicate due to mental health or physical conditions. The policy required by the code does not include a requirement for an outreach or dissemination plan for the policies; however it is understood the policy is part of trainings and educational programming material provided to students for the purpose of preventing sexual violence and sexual assaults on campus.

Current status of sexual harassment and sexual violence training on postsecondary campuses. In compliance with Violence Against Women Act of 2022 (federal law), all postsecondary education institutions who receive state or federal funding must at the very least offer students the opportunity to receive sexual violence training. AB 2683 (Gabriel), Chapter 798, Statute of 2022, established the first statewide requirement for the CCC, CSU, independent institutions of higher education, and private postsecondary education institutions to provide annually training for students on sexual violence and sexual harassment prevention.

The CCC has until September 1, 2024 to implement AB 2683 (Gabriel). Currently, at the CCC, campuses offer the training as part of their orientation to students. Orientation at the CCC is not mandatory and, therefore, unless a student elects to attend orientation they may never receive sexual violence prevention training while they are enrolled at a CCC. The current system wide policy at the CSU requires each campus to offer a prevention education program that includes bystander intervention, reporting, and support services. The training also includes discussions of confidentiality, campus administrative processes for reporting, procedures of how to report to law enforcement, civil and criminal processes, and campus/community based support resources.

All new and continuing CSU students must complete an annual online training on preventing sexual violence and sexual harassment. At the UC, all students are required to take sexual violence prevention and intervention training and education annually. Incoming students are required to take the education and training program within their first six weeks of class. The curriculum for the trainings include definitions of sexual violence, attitudes and beliefs that normalize violence, bystander intervention, how one is to respond to sexual violence using methods that acknowledge the impact of violence and trauma on survivor's lives, local resources for survivors, the rights of a survivor, and the options available to them to report the sexual violence.

At independent California universities the federal and state requirements apply if the institution receives federal or state financial assistance including Pell Grants or Cal Grants for students attending the institution. At the University of Southern California, the Relationship and Sexual Violence Prevention Services is an annual required training for all first and second year undergraduate students on affirmative consent and healthy relationships. Azusa Pacific University offers an online training program "Haven – Understanding Sexual Assault" to every incoming students. At Stanford University, incoming undergraduates receive an online "Beyond Sex Ed: Consent and Sexuality at Stanford program" at orientation and continuing undergraduates receive an expanded program that builds upon the program listed above.

Arguments in support. As explained by the UC Student Association, "currently, involuntary drug consumption and intoxication remains a pervasive issue related to sexual violence on college

campuses. According to a study published in the *Psychology of Violence* journal in the American Psychology Association, 1 in 13 students reported being drugged (462 students in 539 incidents), and 83 students reported 172 incidents in which they had or knew someone who had drugged another student. However, drug-facilitated sexual violence is often not sufficiently understood by students, including the effects, how to tell if someone is at risk of drug-facilitate sexual violence, and the resources someone at risk might need. State-established framework for trainings do not have requirements to provide information regarding drug-facilitated sexual violence.”

“Additionally, survivors of SVSH are often hesitant to report because of a variety of factors, including fear of repercussions/reprisal, belief that UCPD and/or Title IX will not effectively address the situation, not being aware of other resources available to them, among other reasons. Many survivors explicitly do not want to report to a mandated reporter, because they do not want their experience of SVSH to be handled by Title IX, seeing how other survivors have been treated by the system. Currently, the state-established SVSH training framework does not require that resources are identified as confidential/non confidential, specific information about when a mandated reporter is required to report, etc. Without this information, student survivors are often left confused about who exactly is a mandated reporter and what they are required to report, which can lead to situations where student survivors disclose to a trusted peer, such as a TA, a student tutor, etc, and without prior information, their peer is required to report the incident that was disclosed to them. This can lead to situations of distrust or feelings of betrayal for survivors who already are experiencing the negative effects of SVSH.”

“AB 2608 would require critical updates to post-secondary education SVSH trainings. The updates will include information related to signs, symptoms, and prevention of drug-facilitated sexual violence and harassment. Specifically, the training will also be required to include how to identify if someone is at risk of drug-facilitated sexual violence, common facts and myths regarding drug-facilitate sexual violence and where to seek care for related circumstances. The training will also include information related to confidential support and care resources for victims of sexual violence and/or sexual harassment.”

Committee comments. Recent research, “Exploring the Potential Campus-Level Impact of Online Universal Sexual Assault Prevention Education,” found that “population-level intervention for all first-year college students, the prevention course can foster accurate perceptions of positive social norms, increase empathy, and support victims, and increase students’ stated ability and intention to intervene.”³ The prevention trainings are having the intended effect and therefore, expanding them to include a section informing students of drug-facilitated sexual assaults will increase awareness and potentially decrease incidents across campuses.

To provide a specific implementation date, include alcohol-induced sexual assault, and to define drug for purpose of narrowing the scope to common date rape drugs, Committee Staff has suggested, and the Author has agreed, to the following amendments:

- 1) Amends Section 67385.7, subdivision (d), paragraph (1) to add the date of September 1, 2026 as to when the higher education institutions must begin to consider whether they will update their annual trainings:

³<https://pubmed.ncbi.nlm.nih.gov/29577841/#:~:text=These%20findings%20suggest%20that%20when,ability%20and%20intention%20to%20intervene.>

(d) (1) Beginning on September 1, 2024, and each year thereafter, the California Community Colleges, the California State University, independent institutions of higher education that receive state financial assistance, and private postsecondary educational institutions that receive state financial assistance shall, and the University of California is requested to, annually train its students on sexual violence and sexual harassment, and beginning on *September 1, 2026*, and every two years thereafter, consider updating the annual training.

- 2) Amends Section 67385.7, subdivision (d), paragraph (4) to include the date of September 1, 2026 for when the higher education institutions must include educational materials on drug-facilitated sexual assault as part of their annual training.

(4) Beginning on *September 1, 2026* the annual training for students established in paragraph (1) shall cover all of the following topics:

- 3) Amends Section 67385.7, subdivision (d), paragraph (4), subparagraphs (A) – (D) as follows:

(A) How to recognize if a person is at risk of *alcohol and* drug-facilitated sexual assault, including, but not limited to, common symptoms following drug consumption and intoxication.

(B) Effective measures that can be taken to prevent involuntary *alcohol and* drug consumption and ways to respond to circumstances where a person may be involuntarily intoxicated and at risk for *alcohol and* drug-facilitated sexual assault.

(C) As part of the topic covered pursuant to subparagraph (A) of paragraph (3), common facts and myths regarding *alcohol and* drug-facilitated sexual assault.

(D) Information related to confidential support and care resources for ~~emergency~~ situations that arise as a result of an act of sexual violence or sexual harassment, or both, including, but not limited to, contact information and the availability of confidential medical and transportation services, forensic examination sites, and, to the extent available, rape crisis centers on campus or within the surrounding community of the campus.

- 4) Adds to Section 67385.7, subdivision (g), paragraph (5) to provide a definition of “drugs”:

(5) “*Drugs*” includes, but is not limited to, *flunitrazepam, ketamine, and gamma hydroxybutyric acid, which is also known by other names, including, but not limited to, GHB, gamma hydroxyl butyrate, 4-hydroxybutyrate, 4-hydroxybutanoic acid, sodium oxybate, and sodium oxybutyrate.*

Related legislation. In response to the recommendations put forth by the Assembly Higher Education Committee, 12 bills by 11 different authors were introduced. In addition to AB 2608 (Gabriel), the bills included in the bill package are as follows:

- 1) AB 810 (Friedman) of 2024, currently pending referral in the Senate Rules Committee, would require the CCC, the CSU, and requests both the UC and private postsecondary education institutions, to implement a policy of requiring potential employees for academic, athletic, and administrative positions to disclose whether they have been the subject of a finding of sexual harassment and to permit the institution to contact past employers to inquire whether the applicant had any substantiated allegations of misconduct.

- 2) SB 1166 (Dodd) of 2024, currently pending a hearing in the Senate Committee on Appropriations, would require the CCC, the CSU, and requests the UC to provide annual reports to the Legislature on the timelines and outcomes of sexual harassment complaints adjudicated by campuses within the system.
- 3) SB 1491 (Eggman) of 2024, currently pending a hearing in the Senate Committee on Judiciary, provides an array of additional supports and protections for lesbian, gay, bisexual, asexual, pansexual, transgender, gender-nonconforming, intersex and two-spirit faculty, staff, and students at postsecondary education institutions throughout the State.
- 4) AB 1790 (Connolly) of 2024, is scheduled to be heard in the Assembly Higher Education Committee on April 16, 2024 and requires the CSU to implement the California State Auditor's findings by January 1, 2026 and to provide two reports to the Legislature on the implementation of the recommendations, as described.
- 5) AB 1905 (Addis) of 2024, places conditions upon the use of settlements, informal resolutions, retreat rights, and letters of recommendations for public postsecondary education institutions of the state for employees who are the respondent in a sexual harassment complaint, as defined. AB 1905 (Addis) passed out of this Committee with a 11 - 0, and is currently pending a hearing in the Assembly Public Employment and Retirement Committee.
- 6) AB 2047 (Mike Fong) of 2024, is scheduled to be heard in the Assembly Higher Education Committee on April 16, 2024. This measure would the CCC, CSU, and the UC to establish a systemwide Office of Civil Rights and requires the system to hire a systemwide Title IX coordinator.
- 7) AB 2048 (Mike Fong) of 2024, is scheduled to be heard in the Assembly Higher Education Committee on April 16, 2024. The measure would require each campus of the CSU and UC, and each community college district, to establish a Title IX office in a private space for students and employees to disclose complaints of sex discrimination and establishes the responsibilities of the Title IX office in addressing and preventing sex discrimination on college campuses.
- 8) AB 2326 (Alvarez) of 2024, is scheduled to be heard in the Assembly Higher Education Committee on April 16, 2024, delineates which entities with the public higher education institutions are responsible for ensuring campus programs are free from discrimination and who has the authority to oversee and monitor compliance with state and federal laws; and, requires the leadership of all three public higher education institutions to present to the Legislature their efforts in addressing and preventing discrimination on campus..
- 9) AB 2407 (Hart) of 2024, is scheduled to be heard in the Assembly Higher Education Committee on April 16, 2024, and requires the State Auditor to conduct an audit every three years of the CCC, CSU, and UC regarding their respective handling and investigation of sexual harassment complaints.
- 10) AB 2492 (Irwin) of 2024, is scheduled to be heard in the Assembly Higher Education Committee on April 16, 2024, and would require each public postsecondary education

institution to establish the positions of a confidential student advocate, a confidential staff and faculty advocate, and a confidential respondent services coordinator.

- 11) AB 2987 (Ortega) of 2024, is scheduled to be heard in the Assembly Higher Education Committee on April 16, 2024. The measure would require each campus of the CSU and CCCs, and requests each campus of the UC, to provide status updates on the outcomes of complaints of sex discrimination to complainants and respondent; and, requires/requests that notice of a disciplinary action to the respondent be provided to the respondent within three schooldays of a decision.

REGISTERED SUPPORT / OPPOSITION:**Support**

Cal State Student Association
California Faculty Association
California Federation of Teachers Afl-cio
California State University Employees Union (CSUEU)
Equal Rights Advocates
Faculty Association of California Community Colleges
Ignite
University of California Student Association
Valorcalifornia / Valorus
Voices for Progress

Opposition

None on file.

Analysis Prepared by: Ellen Cesaretti-Monroy / HIGHER ED. / (916) 319-3960