

Date of Hearing: April 16, 2024

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 2047 (Mike Fong) – As Amended March 19, 2024

SUBJECT: Public postsecondary education: discrimination prevention: systemwide offices of civil rights

SUMMARY: Requires the California Community Colleges (CCC), the California State University (CSU), and the University of California (UC) to establish a Systemwide Office of Civil Rights for the purpose of assisting campuses within the system in addressing and preventing sex discrimination. Specifically, **this bill:**

- 1) Requires the CCC, CSU, and UC to establish a systemwide Office of Civil Rights for the purpose of ensuring campus programs and activities are free from sex discrimination. The office will be located in, but will be independent from the systemwide office of either the Chancellor's Office (CCC and CSU) or the Office of the President (UC).
- 2) Establishes the position of a systemwide Title IX coordinator (coordinator), who will report directly to the systemwide governing board and will be responsible for coordinating the system's implementation and compliance with systemwide nondiscrimination policies. The coordinator will oversee and monitor the compliance of each campus Title IX office (CSU and UC) and the district Title IX office (CCC) with state and federal, as defined. The coordinator will have the experience, training, and expertise necessary to coordinator and carry out the requirements of the systemwide Office of Civil Rights. Permits the coordinator to hire additional staff if necessary to complete the duties assigned to the Office of Civil Rights.
- 3) The Office of Civil Rights will be tasked with accomplishing the following:
 - a) Establishing a single nondiscrimination policy for the entire system and will consult with confidential advocates, sexual assault and domestic violence counselors, students, faculty, and staff during the creation of the nondiscrimination policy. The policy will contain the policies and procedures required by Title IX of the Education Amendments of 1972 and Education Code Section 66281.5, 66281.8, and 67385, 67385.7, and 67386;
 - b) Update the nondiscrimination policy as listed by (a) above, to be annually updated by the coordinator and the leader of the system in consultation with staff, faculty, and students, campus or district Title IX coordinator, as applicable. Any changes to the systemwide nondiscrimination policy must be presented to the systemwide governing board for approval;
 - c) In accordance with the policy created in (3) (a) of this analysis, develop and implement, a grievance procedure for the prompt and equitable processing, adjudication, and resolution of all complaints of sex discrimination filed by students faculty, and staff when the respondent is any of the following employees of the system:
 - i) A campus chief executive officer (CCC);

- ii) A campus chancellor (UC) or president (CSU);
 - iii) A campus-based or district-based Title IX coordinator;
 - iv) An employee of the systemwide office of the leader of the system; and,
 - v) A member of the systemwide governing board;
- d) For cases as listed in (c) above, the Office of Civil Rights will investigate and adjudicate the complaints as filed in accordance with the nondiscrimination policy;
 - e) Provide annual training for personnel in campus-based or district-based Title IX offices, as required;
 - f) Establish best practice guidance for the prevention of sex discrimination and the adjudication of complaints of sex discrimination as required by the systemwide nondiscrimination policy;
 - g) Oversee and monitor the activities of campus-based or district-based Title IX offices to determine if sex discrimination complaints are being processed in a timely manner; and, if the campus or district Title IX offices are addressing patterns of sex discrimination on campus;
 - h) Develop and implement a comprehensive prevention education and prevention training program for students, faculty, and staff on campus within the system. The prevention education and prevention training will include the following:
 - i) Incorporate bystander prevention training, policy awareness training, and assault prevention training;
 - ii) Adopt an approach of intersectionality that calls for a pursuit of culturally relevant programs and practices that consider how students, faculty, and staff of various identities interact with each other.
 - iii) Feedback loops to determine if the training is having the intended effect; and,
 - iv) Training required by Education Code Section 67385.7;
 - i) Process appeals for sex discrimination complaints as required by Education Code Section 66292.3;
 - j) Establish a list of regionally based hearing officers who are trained in the system's nondiscrimination policy and are neutral and impartial to the outcome of the hearing. The hearing officer may be a Title IX coordinator from within the system. Establishes a procedure for selecting a hearing officer of cases overseen by the systemwide Title IX coordinator;
 - k) Establish systemwide disciplinary sanctions for sexual harassment and sex discrimination cases;

- l) Compile the three-month evaluations, as defined, within the academic year into an annual report. The report will be provided to the systemwide governing board and the leader of the system. The report will be presented annually during a public hearing of the systemwide governing board and will be posted on the systemwide internet website; and,
 - m) Annually assess whether the Office of Civil Rights requires additional staffing or resources to complete the tasks above; and if additional resources or staff are required to make the request in the system's annual budget request to the California State Legislature.
- 4) Defines the following:
- a) "Leader of the system" means the Chancellor of the CCC, the Chancellor of the CSU, or the President of the UC;
 - b) "Systemwide governing board" means the Board of Governors of the CCC, the Board of Trustees of the CSU, and the Board of Regents of the UC;
 - c) "Systemwide office of the leader of the system" means the office of the CCC Chancellor, the office of the CSU Chancellor, and the UC Office of the President.
- 5) Establishes, if the Commission on State Mandates determines, that this bill contains costs mandated by the state, the state shall reimburse the applicable entities.

EXISTING LAW: *Federal law.*

- 1) No person in the United States will, 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 except for specified circumstances including membership of fraternities and sororities (United States Code Title 20, Chapter 38, Section 1681... colloquially known as Title IX).
- 2) Outlines the required response pursuant to Title IX, of a postsecondary higher education institution when the institution is made aware of an alleged sexual harassment incident on campus. The regulations include a requirement for a formal complaint, a grievance procedure for an investigation into whether the incident based on a standard of evidence occurred, and a method of appealing the outcome of the grievance process (Federal Code of Regulations Title 34, Subtitle B, Chapter 1, Subpart D, Section 106.45).
- 3) Defines sexual harassment as conduct on the basis of sex that satisfies at least one of the following:
 - a) An employee of the postsecondary education institution conditions aid, benefit, or services to a recipient on the individual's participation in unwelcome sexual conduct;
 - b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; and,
 - c) Sexual assault, dating violence, domestic violence, and stalking, as defined in the United States Code (Federal Code of Regulations, Title 34, Subpart D, Section 106.30).

State law.

- 1) Establishes the UC as a public trust to be administered by the Regents and grants the Regents full powers of organization and governance subject only to legislative control as necessary to ensure the security of funds, compliance with terms of its endowments, and the statutory requirements around competitive bidding and contracts, sales of property, and the purchase of materials, goods, and services (Article IX, Section (9) (a) of the California Constitution).
- 2) Establishes the CCC under the administration of the Board of Governors of the CCC, as one of the segments of public postsecondary education in California. The CCC shall be comprised of community college districts (Education Code (EDC) Section 70900).
- 3) Establishes the CSU system, comprised of 23 campuses, and bestows upon the CSU Trustees, through the BOT, the power, duties, and functions with respect to the management, administration, and control of the CSU system (EDC Sections 66606 and 89000 et. Seq.).
- 4) Stipulates that no provision of the Donahue Higher Education Act shall apply to the UC unless the UC Regents adopts the provision (EDC Section 67400).
- 5) Establishes the policy for the State of California that all persons should enjoy their postsecondary education free from discrimination regardless of their sex. Requires each postsecondary education institution in the state to provide a written policy on sexual harassment (policy), including information on the complaint process, on the institutions website. The policy is to include information on the specific rules and procedures for reporting charges of sexual harassment and the available remedies and resources available to survivors both on and off campus. A copy of the policies shall be:
 - a) Displayed in a prominent location, as defined, in the main administrative building or in another area on the campus or school site;
 - b) Provided to students during any orientation program for new students at the beginning of each quarter, semester, or summer session;
 - c) Provided to each faculty member, administrative staff, and all member of the support staff at the beginning of each school year or at the time the employee is hired;
 - d) Included in any publication of the institution that includes the comprehensive rules, regulations, procedure, and standards of conduct for the institution (EDC Section 66281.5).
- 2) Requires the governing board or body of each postsecondary institution in the state, as a condition of receiving state funding, to comply with an array of conditions pertaining to protecting students from sexual harassment protections and to provide students with procedural protections relating to claims of sexual harassment (EDC Section 66281.8).
- 3) 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: *A Call to Action.* To understand how higher education institutions are preventing and addressing sex discrimination on campuses, staff from the Assembly Committee on Higher Education hosted fact-finding briefings with representatives from the CCC, the CSU, the UC, and various California Independent Colleges and Universities. The “A Call to Action” report is a synopsis of the information gleaned from the briefings and over 400 hours of research as to how the State can partner with higher education institutions to prevent and address sex discrimination in all its forms on campuses throughout California.¹

The “A Call to Action” report attempted to answer “what are the CCC, CSU, and UC doing to address and prevent sex discrimination on campus” with the following:

[T]he CCC is the only system without a systemwide Title IX coordinator and a formal systemwide policy for how to prevent and address sex discrimination on campus. Committee Staff acknowledge that with local control there are limits to how uniform policies and procedures will be at the community colleges. Committee Staff also recognize the limitation of the Chancellor’s Office to conduct meaningful oversight while also honoring local control. However, perhaps in this instance, the impediments of local control outweigh the benefits, and the time for a uniform policy and additional oversight may be warranted.

Both the CSU and the UC have campus-based Title IX offices, Title IX coordinators at each campus, and a systemwide Title IX offices. The CSU and UC each have one systemwide policy on how to address complaints of sex discrimination on campus.”

“As mentioned previously, the CCC is a decentralized system with no universal policy on how sex discrimination complaints are to be processed. [Faculty Association of the California Community Colleges (FACCC)] stressed the need for a standardized sex discrimination policy and procedure that is the same across all 73 community college districts. To quote FACCC, ‘Our primary issue is the need for standardized Title IX policies and procedures across community college districts. With faculty often teaching across multiple districts and systems of higher education, clarity and consistency in processes are paramount for students and faculty when filing complaints’ (Personal Correspondence, January 12, 2024).”

“The confusion FACCC mentions above is not solely due to local control and the ability to have 73 different policies (one for each district), the confusion also lies with the multiple,

¹ https://ahed.assembly.ca.gov/system/files/2024-02/a-call-to-action-report-2024_0.pdf

overlapping, and complex laws that govern sex discrimination prevention for community colleges (Title IX, California Education Code, Federal Violence Against Women Act, The Civil Rights Act, and Title 5 regulations). While the California Community College League does have policies that help community colleges understand the labyrinth of laws, colleges must pay for this service, and even with the templates provided, nothing prevents the community college district from omitting sections or adding sections to the policy to suit the interpretation of the local governing board.”

Based on the findings above, the following recommendation was made:

Recommendation 1 – Each system should have a Systemwide Office of Civil Rights. The office is independent from the systemwide office and reports directly to the systemwide governing board. The office should have a systemwide Title IX coordinator and deputy coordinator. The office is tasked with the following:

- 1) Adopting one nondiscrimination policy for the entire system (including the CCC). The policy will include procedures for the adjudication of Federal Title IX complaints and complaints that align with the California Sex Equity in Education Act;
- 2) Adjudicating complaints against a campus president/chancellor/chief executive officer OR complaints filed against staff within the systemwide office, including those against the systemwide chancellor (CCC and CSU) or president (UC);
- 3) Provides training for campus-based (CSU and UC) or district-based (CCC) Title IX offices;
- 4) Provides best practice guidance for the prevention of sex discrimination and the adjudication of complaints of sex discrimination;
- 5) Interacts with data provided by campuses (or districts CCC) to aid in the prevention of sex discrimination;
- 6) Develop and execute a comprehensive prevention education strategy that incorporates bystander prevention training, policy awareness training, and assault prevention training. The educational prevention strategy should adopt an approach of intersectionality that calls for a pursuit of culturally relevant programs and practices that name and meaningfully consider how students of various identities (such as race, gender identity, class, sexual orientation, and ability) interact with each other. The training should contain feedback loops to ascertain whether the training is having the intended effect;
- 7) The systemwide office will act as an appeal office for all sex discrimination cases that occur on campuses within the system;
- 8) Meets with all campus-based or district-based Title IX offices every three months to access their compliance with state and federal law;
- 9) Developing a campus climate survey (in the case of the CCC a district-based climate survey) to be instituted every three years to provide a feedback loop as to how the campus community perceives the institution’s policies for the prevention of sex discrimination; and,

10) Provides an annual presentation on the state of the system compliance with sex discrimination laws and offer recommendations for improvement to the Systemwide Governing Board each year.

AB 2047 (M. Fong) distills components of the *Systemwide Recommendation 1* from the “A Call To Action” report and would mandate that each public higher education system establish a systemwide Office of Civil Rights.

Author’s intent. As detailed by the author, “California has long been heralded as a state for equity and inclusion; however the methods in place to monitor and address sex discrimination on our collegiate campuses are archaic when compared to other states. AB 2047 seeks to build upon identified best practices by requiring the CCC, CSU and UC to have each segment establish a systemwide Civil Rights office. The measure is part of a larger bill package that seeks to provide a system of support and accountability by which each campus is enabled to fulfill their duty of providing educational programs free from sexual harassment and sex discrimination. AB 2047 would require each Civil Rights office to have trained staff and assigns specific duties to the office as the first monitoring entity by which the system may hold itself accountable to state and federal laws.”

Systemwide Title IX offices. The CCC is the only public higher education system in California without a systemwide Title IX coordinator. The responsibility of monitoring compliance with Title IX and other antidiscrimination laws, is delegated to the CCC Chancellor’s Office by EDC Section 66292. According to the CCC Chancellor’s Office, the current duties of overseeing the implementation of Title IX and other sex discrimination laws is relegated to the Office of General Counsel. Technically, the California Code of Regulations Title 5, Section, 59340, requires each community college district to annually submit a report on the following information:

- 1) The number of employment and non-employment discrimination complaints and informal charges received in the previous academic year;
- 2) The number of resolved complaints and informal charges in the previous academic year; and,
- 3) The number of complaints received in the previous academic year and those that were substantiated in whole or in part.

During briefings for the “A Call to Action” report, CCC Chancellor’s Office, confirmed the Office does not actively monitor each district’s compliance with either state or federal law, nor do they actively monitor each community college’s district policies as to whether the policies comply with federal or state law.

Due to the decentralized nature of the CCC, there are 73 different districts with 73 governing boards who determine the day to day practices of community colleges within their geographic boundary. In 2019, Dr. Carla Martinez published a dissertation entitled, “Title IX Policy in the California Community Colleges.” The dissertation assessed how the CCC is meeting Title IX obligations through its district-level policies. The dissertation examined 20 district policies, interviewed Title IX practitioners, and provided feedback from a Title IX expert panel. The dissertation concluded the following:

- Existing governance structure delegates authority to the local governing boards to create policies on preventing sex discrimination on campus. This decentralized process means the policies are not uniformed across the system (pg. 2);
- Due to the lack of a single systemwide policy, districts often have multiple policies or versions of how to prevent discrimination on campus, as well as, how complaints are to be processed (pg. 47-49). More than half of the districts' policies that were reviewed were completely silent about Title IX (pg. 50). In some cases sexual harassment and sex-based discrimination were missing from the prohibited behaviors listed in the district's policies (pg. 54); and,
- When Title IX practitioners were asked what could be done to help them, their responses centered on the following: additional funding, defining the role of the Title IX coordinator, and leadership from the Chancellor's Office (pg. 66).

There are many divisions, at the CSU Chancellor's Office, whose jurisdiction includes preventing discrimination. The Office of General Counsel, Human Resources, the systemwide Title IX coordinator, and the Title IX compliance unit all share the responsibility of enacting policies to prevent sex discrimination on CSU campuses. The California State Auditor, in its recent audit of the CSU, "2022-109", found the role of the systemwide Title IX compliance unit was to:

- Work to eliminate sex discrimination and violence on campus by coordinating with campus officials; and,
- Provide oversight and guidance to help campuses remain in compliance with systemwide policies, state, and federal law.²

The CSU systemwide Title IX coordinator is tasked with maintaining the systemwide sexual harassment policy and is responsible for monitoring campuses' compliance with the policy. Furthermore, the systemwide Title IX coordinator is responsible for the adjudication of specific cases and any appeals of complaints originally processed by CSU campuses. The sex discrimination cases the systemwide Title IX coordinator handles include claims against a campus President, the Chancellor, a member of the Board of Trustees, or a campus-based Title IX coordinator

In theory, based on the above, the Title IX compliance unit operates as a supervisory unit that often interacts, monitors, and provides when necessary policy corrections to campus Title IX offices and coordinators on their handling of sexual harassment and discrimination complaints. However, according to a report examining the compliance of all 23 campuses with state and federal laws, commissioned by the Board of Trustees (the Cozen O'Connor report), the Chancellor's Office provides more of an advisory role rather than one of deliberate oversight.³ The same report found that the current model of support is ineffective in ensuring consistent and effective implementation of Title IX and the CSU's nondiscrimination policies across the system.

² <https://www.auditor.ca.gov/reports/2022-109/index.html>

³ https://www.calstate.edu/titleix/Documents/california-state-university_systemwide-report_july-17-2023.pdf

In 2014, a California State Audit raised concerns regarding the oversight role of the CSU Chancellor's Office as it relates to sexual harassment and sexual violence prevention. The State Auditor recommended the CSU Chancellor's Office conduct annual Title IX reviews. However, due to budgetary restrictions and staffing turnovers, these annual reviews are not being conducted. A State Audit in July 2023, "2022-109," revealed the CSU does not have uniform guidance for how campuses should utilize the CSU's nondiscrimination policy to prevent sexual harassment and discrimination on campus. Each campus applies the policy in an ad hoc manner which, as indicated by the Audit, has led to a variety of definitions of what constitutes a violation of the nondiscrimination policy and various outcomes of complaints.

While the UC may be constitutionally autonomous from the California Legislature, it is still required to follow federal law including the laws preventing discrimination on campus. Furthermore, EDC Section 66292.2 delegates the shared responsibility of ensuring campus programs and activities are free from discrimination to the President of the UC and the chancellor of each campus. The Education Code Sections governing sexual harassment and sex discrimination all apply to the UC as the Legislature has tied the compliance of those sections to the receipt of financial aid for students.

To comply with the requirements of EDC Section 66292.2 the UC instituted a Title IX structure to oversee the compliance with Title IX and other nondiscrimination laws. The UC Office of the President (UCOP) employs a systemwide Title IX coordinator, who oversees and manages the systemwide Title IX office. The systemwide Title IX office's primary mission is to support the system's commitment to providing a safe and discrimination-free learning and working environment. The systemwide Title IX office is comprised of five officers who provide direction and support for the Title IX offices on campuses, assist in implementing best practices in harassment prevention and response, and provide investigative support for the UC campus Title IX offices. The systemwide Title IX office also develops and delivers educational and training materials to the campus practitioners, campus-based Title IX offices, and other university partners involved in the prevention of discrimination on campus. The systemwide Title IX coordinator periodically meets with the campus-based Title IX coordinators to understand trends and patterns of harassment on campus and to provide integral support to the campus-based practitioners. Data is collected by each of the campuses on sex discrimination and the data is shared with the systemwide office for assistance in compliance and prevention of sex discrimination. The systemwide office monitors each of the campuses to ensure any sex discrimination patterns are recognized and addressed at the campus level.

AB 2047 (M. Fong) adopts the UC model for the CSU and CCC by requiring system of monitoring, compliance, and guidance from the systemwide office to the campus-based or district based offices.

Duplication within "A Call to Action" bill package. In response to the "A Call to Action" report published by this Committee, 11 members sought to author bills to address a majority of the recommendations contained within the report. Concerns regarding duplication of content and potential increase in cost in a finite budget years have been raised. Each of the twelve measures in the bill package are meant to work as pieces of a puzzle creating a larger holistic response to issues of concern raised by the report, with the ultimate goal of providing a transparent, responsive, and preventative sex discrimination plexus on CCC, CSU, and UC campuses. To help illustrate how the measures interplay with each other the below list demonstrate the flow of

the bill package and how, when enacted, the system of compliance and oversight will work for students, staff, and faculty:

- 1) AB 2047 (M. Fong) establishes a systemwide Civil Rights Office who is responsible for creating a systemwide prevention training which is provided on campus by the campus or district based Title IX office created by AB 2048 (M. Fong) of 2024.
- 2) AB 2047 (M. Fong) creates a nondiscrimination policy for the whole system – used by campus or district Title IX offices for the adjudication of cases (AB 2048 (M. Fong)). Records of the cases are then reported to the Legislature (SB 1166 (Dodd)). The reporting is made possible by the case management system required by AB 1790 (Connolly) for the CSU and by AB 2048 (M. Fong) for the other segments. AB 2048 (M. Fong) provides details missing from AB 1790 (Connolly) for the contents of the case management system.
- 3) Establishes best practices for adjudicating sex discrimination cases and for preventing sex discrimination on campus – the guidance is used by campus or district based Title IX offices (AB 2048 (M. Fong)).
- 4) AB 2048 (M. Fong) has the campus or district based Title IX coordinators meet with the leaders of the campuses to provide a report on the activities of the Title IX office, the same report is then given to the systemwide Title IX coordinator during their three month evaluation with the campus/district Title IX coordinator (AB 2047 (M. Fong)) – the every three month reports for every campus or district are then compiled into an annual review of the system by the systemwide Title IX coordinator– presents to the systemwide governing board (AB 2047 (M. Fong) and AB 2326 (Alvarez)) – the Chancellor (CCC and CSU) or the President (UC) along with the leader of the systemwide board present the annual report to the Legislature along with an update on how the system is preventing all forms of discrimination (AB 2326 (Alvarez)).

The only bills where duplicative might be present, but is justifiable, are as follows:

- 1) AB 2047 (M. Fong) and AB 2326 (Alvarez) – these measure are not duplicative as AB 2027 (M. Fong) have the Title IX coordinator presenting on sex discrimination prevention to the Governing Boards of the System; whereas, AB 2326 (Alvarez) has the Chancellor (CCC and CSU) or the President (UC) presenting on how the system is preventing all forms of discrimination not just sex discrimination;
- 2) AB 2047 (M. Fong) and AB 2048 (M. Fong) – these measures are not duplicative as the report created by AB 2048 (M. Fong) is presented to the systemwide Title IX coordinator (AB 2047 (M. Fong)) who then compiles and presents it to the Governing Board of the system and, the training created by AB 2047 (M. Fong) is then implemented by AB 2048 (M. Fong) and contains the requirements of AB 2608 (Gabriel).
- 3) AB 1790 (Connolly), AB 2048 (M. Fong), and AB 2047 (M. Fong) – AB 1790 (Connolly) provides a variety of requirements for the CSU Chancellor’s office to conduct, AB 2047 (M. Fong) establishes the ongoing responsibilities of the CSU systemwide Title IX office and requires it of the other two higher education systems as well; and, both AB 1790 (Connolly) and AB 2048 (M. Fong) have the CSU create a case management system, but AB 2048 (M. Fong) has details AB 1790 (Connolly) lacks.

Arguments in support. As opined by the FACCC, “It is with great appreciation that we acknowledge your leadership in introducing Assembly Bill 2047, which signifies a monumental step toward ensuring our postsecondary education institutions are environments free from discrimination and sexual harassment. As educators and advocates, we believe that establishing systemwide Offices of Civil Rights, led by Title IX coordinators as specified in AB 2047, is crucial.

Furthermore, “this initiative will undoubtedly create safer, more inclusive campuses by streamlining the process for addressing complaints of sex discrimination and establishing a uniform, systemwide nondiscrimination policy. Furthermore, the requirement for these offices to provide comprehensive education, training, and guidance on sex discrimination prevention and complaint adjudication aligns with our core values. Education is the cornerstone of change, and by equipping our students, faculty, and staff with the knowledge and tools to identify, prevent, and respond to discrimination, we can foster a culture of respect and equality.”

Finally, “the FACCC recognizes the significance of AB 2047's mandate for annual training, the development of best practices for prevention and adjudication of sex discrimination complaints, and the oversight of campus- and district-based Title IX offices. These measures are essential for ensuring accountability and promoting a safe educational environment for all. In light of the challenges our educators and students face, it is imperative that we support legislation that not only addresses but also prevents discrimination. AB 2047 represents a pivotal step in this direction, and the FACCC wholeheartedly endorses this bill.”

As articulated by the Cal State Student Association, representing nearly half a million students within the CSU system, “AB 2047, aligning with key recommendations from the Call to Action Report, signifies a vital step forward in this endeavor. AB 2047 mandates the establishment of a systemwide Office of Civil Rights and the appointment of a systemwide Title IX coordinator. These measures ensure that each campus has dedicated resources and personnel responsible for upholding nondiscrimination policies and complying with federal and state laws regarding sex discrimination. Furthermore, the bill emphasizes the importance of developing comprehensive prevention education and training programs for students, faculty, and staff. By incorporating bystander prevention, policy awareness, and assault prevention training, these programs empower our communities to effectively recognize and address instances of sex discrimination. Additionally, the requirement for regionally based hearing officers, trained in both systemwide nondiscrimination policy and Title IX regulations, enhances the fairness and impartiality of adjudication processes for complaints of sex discrimination. We also appreciate the transparency and accountability measures included in the bill, such as quarterly evaluations of campus-based Title IX coordinators and annual reporting requirements.”

Committee comments. As stated above, the CCC is a decentralized system with 73 governing boards who oversee the daily operations of the community colleges within their system. AB 2047 (M. Fong) represents a new concept of a centralized policy with centralized oversight. In the past the State has left the oversight and regulations of the system to the CCC Chancellor's Office. However, as demonstrated by the dissertation authored by Dr. Martinez, this has resulted in 73 different policies and confusion amongst students and employees of the system. This measure would signify a willingness for the Legislature to remove local control when it is in the best interest of students.

To address concerns from the California State University and the California Community Colleges and to align the measure with intent of the author, Committee Staff has suggested and, the Author has agreed, to the following amendments:

- 1) Amends Section 66280 subdivision (a) paragraph (1) to require the systemwide office leader to have supervisory capacity over the systemwide Title IX coordinator in addition to the systemwide governing board.

(1) Establish a systemwide Office of Civil Rights for the purpose of ensuring campus programs and activities are free from sex discrimination. The office shall be located in, but independent from, the systemwide office of the leader of the system. The office shall be led by the systemwide Title IX coordinator designated pursuant to paragraph (2), who shall report directly to the *leader of the system and the systemwide governing board*, and who shall be responsible for coordinating the system's implementation and compliance with the systemwide nondiscrimination policies established pursuant to this section.

- 2) Amends Section 66280 subdivision (b) paragraph (2) to reflect the role the systemwide Title IX coordinator to monitor the CCC, CSU, or UC's responsibility in offering programs free from discrimination.

(2) Establish the position of, and designate a staff person as, the systemwide Title IX coordinator to *monitor the system's compliance with Sections 66292, 66292.1, and 66292.2 respectively.* ~~oversee and monitor the compliance of each campus-based or district-based Title IX office with federal and state laws pertaining to sex discrimination.~~ The systemwide Title IX coordinator shall have the experience, training, and expertise necessary to coordinate and carry out the requirements of the systemwide Office of Civil Rights pursuant to this section, and to, if necessary, recruit, hire, and train ~~the necessary~~ personnel to carry out the requirements of this section.

- 3) Amends Section 66280 subdivision (c) paragraph (1) subparagraph (A) to reflect the laws the systemwide nondiscrimination policy should include.

(1) (A) In consultation with confidential advocates, sexual assault and domestic violence counselors, students, faculty, and staff, establish and adopt a single, systemwide nondiscrimination policy for the entire system. The policy shall incorporate state and federal law pertaining to the prevention of sex discrimination including, but not limited to ~~include the policies and procedures required pursuant to~~ Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.) and Sections 66281.5, 66281.8, 67385, 67385.7, ~~66281.4~~ and 67386.

- 4) Amends Section 66280 subdivision (c) paragraph (1) subparagraph (B), paragraph (2), and paragraph (7) to make technical changes and to address potential duplication with AB 2326 (Alvarez) and AB 2048 (M. Fong).

(B) The systemwide nondiscrimination policy shall be reviewed and, if necessary, updated annually by the systemwide Title IX coordinator and the leader of the system in consultation ~~with Title IX coordinators with campus Title IX coordinators or district Title IX coordinators~~ and representatives from student, faculty, and staff groups affiliated with the system. ~~Any changes to the systemwide nondiscrimination policy shall be presented to the systemwide governing board for approval.~~

(2) In accordance with the policy adopted pursuant to paragraph (1), develop and implement a grievance procedure for prompt and equitable processing, adjudication, and resolution of all complaints of sex discrimination filed by students, faculty, or staff in which the respondent is any of the following:

(A) A campus chief executive officer.

(B) A campus chancellor.

(C) A campus president.

(D) ~~A campus-based or district-based Title IX coordinator.~~

(E) An employee of the systemwide office of the leader of the system.

(F) A member of the systemwide governing board.

(3) Adjudicate any complaints described in paragraph (2) in accordance with the systemwide nondiscrimination policy adopted pursuant to paragraph (1).

(4) Provide annual training for personnel in ~~campus-based or district-based~~ Title IX offices *at a community college district office or on a campus of the California State University or University of California.* ~~as required pursuant to Sections _____ and _____.~~

(7) Develop and implement a ~~comprehensive prevention education and prevention systemwide prevention~~ training program for students, faculty, and staff on campuses within the system. The ~~systemwide prevention education and prevention~~ training shall do, or include, all of the following:

- 5) Amends Section 66280 subdivision (c) paragraph (6) to reflect a collaborative partnership between campus or district based Title IX offices and the systemwide office; instead of a punitive and performative relationship.

~~(6) Assist Title IX offices at community college districts, Title IX offices on campuses of the California State University, or on a campus of the University of California in implementing the best practices established pursuant to paragraph (5). ~~Oversee and monitor the activities of the Title IX offices campus-based or district-based Title IX offices to ensure sex discrimination complaints are timely adjudicated and to ensure the campus-based and district-based Title IX offices are addressing patterns of sex discrimination on campus.~~~~

- 6) Amends Section 66280 subdivision (c) paragraphs (9), (10), and (12) to address how the systemwide Title IX office will interact with the campus or district based Title IX offices for purposes of monitoring the offices for compliance with the system's nondiscrimination policy, state, and federal laws.

~~(9) Review the reports provided pursuant to Section 66279 and 66279.5, and provide an action plan for improving the activities of the Title IX office for purposes of preventing and addressing sex discrimination.~~

~~(10) (A) Conduct a compliance review, at least once every 3 years, of each district of the California Community Colleges, each campus of the California State University or each~~

campus of the University of California to determine whether they are complying with the systemwide nondiscrimination policy pursuant to (1) and the best practices established pursuant to paragraph (5).

(B) The compliance reviews shall be presented during a public session of the systemwide governing board in the year the review is completed and shall be made public on the website of the systemwide governing board and on the district or campus website.

~~(9) Meet each campus-based or district-based Title IX coordinator once every three months to evaluate and assess the coordinator's compliance with Sections _____ and _____.~~

~~(10) (A) Establish a list of regionally based hearing officers who are trained in the systemwide nondiscrimination policy adopted pursuant to paragraph (1) and Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), and are neutral and impartial to the outcome of the hearing. A hearing officer may be a Title IX coordinator from an adjacent campus~~

~~(B) The systemwide Office of Civil Rights shall ensure that the complainant and the respondent in a sex discrimination complaint described in paragraph (2) agree on an impartial hearing officer from the list established in paragraph (10). If the respondent and complainant are unable to reach an agreement, the systemwide Title IX coordinator shall select the hearing officer.~~

(12) Beginning on or before July 1, 2027, and annually thereafter, compile the reports described in paragraph (9) from the previous year, into one report provided to the systemwide governing board and leader of the system. The report shall be publically presented at a meeting of the systemwide governing board at the subsequent board meeting following the July 1 publication date. ~~three-month evaluations provided pursuant to Sections _____ and _____ within the previous academic year into an annual report. The report shall be provided to the systemwide governing board and the leader of the system.~~ The report shall be presented annually during a public hearing of the systemwide governing board and shall be posted on the systemwide internet website.

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 2047 (M. Fong), 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 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.
- 7) 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..
- 8) 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.
- 9) 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.
- 10) AB 2608 (Gabriel) of 2024, is scheduled to be heard in the Assembly Higher Education Committee on April 16, 2024 and would expand the requirements for annual training for students on sexual violence and sexual harassment to include information on drug-facilitated sexual assault and information related to confidential support and care resources.
- 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 State University Employees Union (CSUEU)
Faculty Association of California Community Colleges
GenUp (Generation Up)
Safe Campuses Coalition

Opposition

None on file.

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