

Date of Hearing: April 5, 2022

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 2683 (Gabriel) – As Amended March 23, 2022

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

SUMMARY: Requires 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. Specifically, **this bill:**

- 1) Requires each campus of the CCC and the CSU to post educational and preventative information on sexual violence and sexual harassment on the campus website.
- 2) Encourages each campus of an independent institutions of higher education, a private postsecondary education institutions and the UC to post educational and prevention information on sexual violence and sexual harassment on the campus website.
- 3) Clarifies the education and prevention information on sexual violence and sexual harassment on the campus website will include the following:
 - a) Common facts and myths about the causes of sexual violence and sexual harassment;
 - b) What constitutes sexual violence and sexual harassment, including how to file internal administrative complaints with the institute of higher education and how to file criminal complaints with local law enforcement;
 - c) The availability and contact information for campus and community resources for students who are victims of sexual violence and sexual harassment;
 - d) Methods of encouraging peer support for victims and the imposition of sanctions on offenders; and,
 - e) Information regarding campus, criminal, and civil consequences of committing acts of sexual violence and sexual harassment.
- 4) Institutes an annual sexual violence and sexual harassment training requirement for students, beginning on September 1, 2024, for students attending the CCC, the CSU, and any independent institution of higher education or a private postsecondary education institution that receives state financial assistance. The UC is requested to implement the annual training for students on sexual violence and sexual harassment beginning on September 1, 2024.
- 5) Stipulates students who are attending the CCC will be provided six months from the beginning of the academic year to complete the annual training created in (4) beginning on September 1, 2024 and each year thereafter.

- 6) Defines the annual sexual violence and sexual harassment training created in (4) to include the same information presented on the campus website under (3) and the additional information:
 - a) The contact information of a Title IX coordinator or similar position; and,
 - b) Statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and the differing rates at which students experience sexual harassment and sexual assault in the educational setting based on their race, sexual orientation, disability, gender, and gender identity.
- 7) Allows a higher education institution to incorporate the training required in (4) to be incorporated into an existing training as long as the training incorporates the requirements of (6).
- 8) Defines the following:
 - a) “Independent institutions of higher education” to have the same meaning as Education Code Section 66010;
 - b) “Private postsecondary education institutions” to have the same meaning as Education Code Section 94858;
 - c) “Sexual violence and sexual harassment” to have the same meaning as Education Code Section 66262.5; and,
 - d) “Training or train” to mean in-person, remote, video instruction but is not be interpreted as meaning instruction through written materials.

EXISTING LAW:

- 1) Requires the CCC and the CSU and request the UC to collaborate with campus-based and community-based victim advocacy organizations to provide educational and prevention information about sexual violence on their campus websites and to students at campus provided orientations. Permits campuses to include educational and prevention information about sexual violence and sexual harassment information, as defined, in a pre-existing on-campus orientation for incoming students. Clarifies the definition of educational and preventive information to include the following:
 - a) Common facts and myths about the causes of sexual violence;
 - b) Dating violence, rape, sexual assault, domestic violence, and stalking crimes, including information on how to file internal administrative complaints with the institution of higher education and how to file criminal charges with local law enforcement officials;
 - c) The availability of, and contact information for, campus and community resources for students who are victims of sexual violence;
 - d) Methods of encouraging peer support for victims and the imposition of sanctions on offenders; and,

- e) Information regarding campus, criminal, and civil consequences of committing acts of sexual violence (Education Code (EDC) Section 67385.7 (a) and (b)).
- 2) 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; and,
 - 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).
- 3) 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 sex equity in education including publishing in a prominent place on its website the telephone number, office location, and email address of the Title IX coordinator or other designated employee (EDC Section 66281.8 (b) (5) (A)).
- 4) Defines “public higher education” as each campus and branch of the CCC, the CSU, and the UC and defines the “independent institutions of higher education” as those nonpublic higher education institutions that grant undergraduate degrees and/or graduate degrees, are identified as a nonprofit corporation in California, and are accredited by an agency recognized by the United States Department of Education (EDC Section 66010 (a) and (b)).
- 5) Defines “private postsecondary education institutions” as a private entity with a physical presences in this state that offers postsecondary education to the public and charges tuition (EDC Section 94858).
- 6) 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).

- 7) Stipulates no provision of the Donahue Higher Education Act shall apply to the UC unless the UC Regents adopts the provision (EDC Section 67400).

FISCAL EFFECT: Unknown.

COMMENTS: *Need for the measure.* According to 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 2683 will ensure that every student attending a post-secondary institution receives training on sexual violence and harassment, including the resources available to survivors. In doing so, AB 2683 will increase reporting of incidents by empowering students through increased education and connection to resources.”

Prevalence of sexual harassment and sexual violence on higher education campuses. In 2007, *The Campus Sexual Assault Study*, prepared for the U.S. Department of Justice, stated that one in five women are sexually assaulted while in college. 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 percentage points for undergraduate women and 2.4 percentage points for undergraduate men.
- Among all students 41.8% reported experiencing at least one sexual 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.

Since 1990, due to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act, all colleges and universities who receive any federal funding must submit a report once a year which discloses information about certain crimes, including the prevalence of stalking, intimidation, dating violence, domestic violence, sexual assault and hate crimes that occur on or around the campus. The data provided by these reports is available to the public disaggregated by campus on the U.S. Department of Education website under the Campus and Security database. For colleges and universities in California, who reported Clery Act data, between 2014 and 2019, crimes defined by the Violence Against Women's Act or sexual violence crimes, increased from 788 incidents to 1,526 incidents.

Action taken on campus to prevent sexual harassment and sexual violence. Since the enactment of the Clery Act in 1990 and Title IX in 1972 which was established to prohibit the use of federal funds to support discrimination practices in education and to provide individual citizens effective protections against those practices, various subsequent pieces of state and federal legislation have been enacted to instill protections for survivors of sexual harassment and sexual violence. Beginning chronologically:

- *California* - AB 1825 (Reyes), Chapter 933, Statutes of 2005, required employers with more than 50 employees to provide two hours of training and education regarding sexual harassment to supervisors every two years. SB 396 (Lara), Chapter 858, Statutes of 2017, changed this requirement to include business of 5 or more employees must provide the sexual harassment training to all employees and stipulated the training would be conducted every two years. This applies to all postsecondary education institutions in the state who employ more than 5 employees.
- *California* - AB 1088 (Orpeza), Chapter 647, Statutes of 2005, required the CCC, the CSU, and requested the UC to undertake various activities to provide students with educational and prevention information regarding sexual violence, this included providing this information during campus orientation, on the campus website, and established the minimum content of the required information.
- *Federal* – S. 47 (Leahy), Public law 113-4, *Violence Against Women (VAWA) Reauthorization Act of 2013* and subsequent regulations as established by the Federal Registrar 79FR 62751, required postsecondary institutions to offer training to students, employees, and faculty of the institutions on prevention of dating violence, domestic violence, sexual assault, and stalking. However, the statute and regulations do not require that all students or employees take or attend the training, it simply says that the institutions must offer them.
- *California* – SB 493 (Jackson), Chapter 303, Statute of 2020, required postsecondary education institutions to adopt rules and procedures for the prevention of sexual harassment and to adopt and post on their websites the grievance procedures to resolve complaints of sexual harassment.

Current status of sexual harassment and sexual violence training on postsecondary campuses. In compliance with state and 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. 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 CSU students new and continuing must complete the online training as it is mandatory. 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 universities throughout the state 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 sponsors of AB 2783, GENup highlights the need for the bill as, "according to a 2006 study from University of Missouri-Columbia, women faced higher barriers when reporting rape due to "lack of resources to obtain help" and "financial dependence on perpetrator/perpetrator interference in seeking help."² Passing AB 2683 would be crucial in supporting students by providing them with easy access to the necessary resources and options in the scope of sexual violence and sexual assault at their higher education institution.

Committee comments. AB 2683 (Gabriel) builds upon the sexual violence and sexual harassment trainings currently required in state and federal law by establishing parity between employee requirements of the institution and students. Students will now be required to receive sexual violence and sexual harassment training annually. Furthermore, AB 2683 (Gabriel) establishes a minimum content standard for the training to make sure students are fully aware of what constitutes sexual violence and sexual harassment, the resources available to survivors, and the procedures for reporting. "Not Alone" the first report from the White House Task Force to protect Students from Sexual Assault, found the most effective educational prevention programs pertaining to sexual violence and sexual harassment were not brief, one-shot educational programs but those that provided continual learning opportunities that address the rooted individual, relational, and societal causes of sexual assault. AB 2683 (Gabriel) seeks to provide continual training to students on sexual violence and sexual harassment prevention with the understanding that increased knowledge will result in additional preventions and potentially a reduction in incidents statewide.

Current legislation. AB 1968 (Seyarto) of 2022, would require that the Trustees of the California State University (CSU), and requests that the Regents of the University of California (UC), develop content and presentation standards and a model internet website template regarding the steps a student who is a victim of sexual assault may take immediately following the assault. This bill currently awaits a hearing date in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

GENup

Opposition

None on file.

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