

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 245 (Chiu) – As Introduced January 13, 2021

SUBJECT: Educational equity: student records: name and gender changes

SUMMARY: Requires a campus of the University of California (UC), California State University (CSU), or California Community Colleges (CCC) to update a former student's records to include the student's updated legal name or gender if the institution receives government-issued documentation from the student demonstrating that the former student's legal name or gender has been changed. Specifically, **this bill:**

- 1) Defines “public postsecondary educational institution” or “institution” to mean a campus of the UC, the CSU, or the CCCs.
- 2) Specifies that, if a public postsecondary educational institution receives government-issued documentation, as specified, from a former student demonstrating that the former student's legal name or gender has been changed, the institution must update the former student's records to include the updated legal name or gender. If requested by the former student, the institution must reissue any documents conferred upon the former student with the former student's updated legal name or gender. Documents that must be reissued by the institution upon request include, but are not necessarily limited to, a transcript or a diploma conferred by the institution.
- 3) Specifies that the documentation of a former student sufficient to demonstrate a legal name or gender change includes, but is not necessarily limited to, any of the following:
 - a) State-issued driver's license;
 - b) Birth certificate;
 - c) Passport;
 - d) Social security card; and,
 - e) Court order indicating a name change or a gender change, or both.
- 4) Specifies that the bill does not require the institution to modify records that the former student has not requested for modification or reissuance.
- 5) Specifies that, commencing with the 2023–24 graduating class, an institution must provide an option for a graduating student to request that the diploma to be conferred by the institution list the student's chosen name. Commencing with the 2023–24 graduating class, an institution must not require a graduating student to provide legal documentation sufficient to demonstrate a legal name or gender change in order to have the student's chosen name listed on the student's diploma.

- 6) Specifies that, notwithstanding the provisions existing in law that exempts the UC unless approved by a resolution of the UC Board of Regents, this section shall apply to a campus of the UC.
- 7) Requires that, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs, as specified.

EXISTING LAW:

- 1) Sets forth the missions, functions, and governance of the public institutions of higher education in the state, which includes the CCC, the CSU, and the UC. (Education Code (EDC) Section 66000, et seq.)
- 2) Establishes the Equity in Higher Education Act which provides that it is the policy of the state to afford all persons, regardless of specified characteristics, including gender identity and gender expression, equal rights and opportunities in the postsecondary educational institutions of the state. (EDC Section 66250, et seq.)
- 3) Establishes the Gender Recognition Act of 2017 which, among other things:
 - a) Makes findings and declarations that every person deserves full legal and equal treatment under the law and that intersex, transgender, and non-binary people have state-issued identification documents that provide full legal recognition of their accurate gender identity;
 - b) Authorizes the change of gender on a birth certificate, driver's license, or state-issued identification card to be female, male, or non-binary; and,
 - c) Provides for processes allowing individuals, through processes officiated by the Department of Motor Vehicles, the State Registrar, and the county courts, as applicable, to petition to:
 - i) Change the original gender identification listed on a birth certificate and state-issued ID to female, male, or non-binary; and,
 - ii) Change the name listed on a birth certificate and state-issued identification documents. (Civil Procedure Code Sections 1277-1278, Health and Safety Code Sections 103425-103426, 103430, and 103440, and Vehicle Code Sections 12800 and 13005)

FISCAL EFFECT: Unknown

COMMENTS: *Purpose.* According to the author, "AB 245 is a common-sense bill to ensure that transgender and nonbinary college students are able to get diplomas and transcripts with their correct name. Making sure school records reflect a person's actual name and gender is a no-brainer. If a record has a person's incorrect name or 'deadname' on it, the document can out the person to anyone who sees it, putting them at risk of discrimination or harm. This bill will give greater protections to transgender and nonbinary Californians and remove barriers to applying for employment or graduate opportunities."

“Transgender students face many barriers at school. California has taken steps to ensure that students who are currently enrolled in K-12 and higher education institutions and who identify as transgender are protected from discrimination, are permitted to participate in school activities and use facilities consistent with their gender identity, and have their privacy protected. California law also requires schools to allow transgender students to update their current student record so that their name and gender identity are accurately reflected on educational documents and official school records.”

“However, the bulk of these protections apply to current transgender students, and the law and administrative regulations are mostly silent on the rights of former students who may have transitioned or come out after leaving school education. As a result, according to the Transgender Law Center and Equality California, some schools have been reluctant to amend educational records for former students to reflect their correct name and gender. This can effectively “out” the person to anyone who sees the old record or diploma -- potentially putting them at risk of discrimination or harm.”

What does it mean to identify as a transgender person? According to GLAAD (formerly known as the Gay & Lesbian Alliance Against Defamation), “Transgender (adj.) is an umbrella term for people whose gender identity and/or gender expression differs from what is typically associated with the sex they were assigned at birth. People under the transgender umbrella may describe themselves using one or more of a wide variety of terms - including transgender.”

The implications of being “outed” or “deadnamed.” Transgender-identifying former students may wish to update their diploma, transcript, and other school-related documents to reflect their current and preferred name and gender, as opposed to the name and gender they were affiliated with while enrolled in school. Records listing the transgender-identifying former pupil’s gender as assigned at birth and “deadname” (i.e., the birth-name or pre-gender transition name), could “out” the former pupil’s transgender identity when those records are accessed in the course of seeking employment, accessing housing, and securing loans, amongst other activities. Being outed by student records puts transgender-identifying former pupils at risk of bullying, discrimination, violence, and loss of employment opportunities, according to the National Center for Transgender Equity and the Transgender Law Center, Gay, Lesbian, & Straight Education Network (GLSEN), and Equality California.

Studies show that transgender people disproportionately face discrimination, harassment, and violence in areas of life including housing, education, employment, health care, and law enforcement. For example, a 2018 study by the Human Rights Campaign and the University of Connecticut reports that transgender and gender non-conforming individuals are about twice as likely to be sexually assaulted or raped compared to their cis-gender peers in the lesbian, gay, bisexual, queer, and questioning (LGBTQ) community. According to the National Center for Transgender Equity, more than one in four transgender people have lost a job to trans-bias. Transgender individuals are also subject to refusal to hire, privacy violations and violence on the job at significantly higher rates relative to their cis-gender peers.

Arguments in support. Equality California, the sponsor of AB 245, writes that “Many colleges and universities have taken steps to provide students with the ability to designate a chosen or affirmed name on external-facing documents – such as student ID cards, college email and registration accounts, and in grading. However, most colleges do not provide an option for transgender and nonbinary students whose name is different from their legal name to have their

chosen name printed on their college diploma when they graduate. In addition, the process for getting a college transcript or diploma reissued with an updated name varies widely and is not standardized across our higher education institutions, which can make the process more cumbersome. Students should not be ‘deadnamed’ – referred to by the name they were assigned at birth, rather than by their chosen name – on their diploma, which is the ceremonial document commemorating years of hard work and achievement. AB 245 requires public colleges in California to provide graduating transgender and nonbinary students the option to have their chosen name printed on their college diploma, rather than their legal name. The bill also sets out a standard process for colleges to use when former students need to amend their records to reflect their proper names.”

The Los Angeles LGBTQ Chamber of Commerce writes that, “Allowing Californians to have their chosen name on college diplomas recognizes the dignity and privacy of each student at the University of California, California State University and California’s Community Colleges. The updating of former students’ college-level school records ensures those records accurately reflect the graduate’s identity and allows the seamless use of those documents going forward. California is providing leadership for the entire nation on the issue of gender identity... [and] AB 245, is a crucial part of that effort and we are so happy that you are persistently pursuing it.”

Committee comments. Committee staff notes that institutions typically charge a fee when providing copies of transcripts and other documents, and moreover that the language of AB 245 does not restrict an institution’s ability to charge a fee for these documents.

Moving forward, the author may wish consider adding language that explicitly affirms the right of the CCC, CSU, and UC to charge a reasonable processing fee for the modification and reproductions of the student documents referenced in AB 245.

Committee staff also notes that words like “diploma” are terms of art that may have different, specific meanings between different segments of higher education. As referenced in AB 245, the author’s use of “diploma” pertains to the physical document awarded to a graduate due to the completion of a degree program.

Moving forward, the author may wish to consider adding a specific definition pertaining to the meaning of “diploma” for this section.

Related legislation. AB 2023 (Chiu, 2020) was essentially identical to this AB 245, and was held in the Assembly Higher Education Committee.

AB 711 (Chiu), Chapter 179, Statutes of 2019, required a local educational agency, including a school district, charter school or county office of education, to update and reissue a former pupil's records if it receives government-issued documentation that a former pupil's legal name and/or gender has been changed.

REGISTERED SUPPORT / OPPOSITION:

Support

American Civil Liberties Union/Northern California/Southern California/San Diego and Imperial Counties
California Faculty Association

California State Student Association
El/La Para Translatinas
Equality California
Faculty Association of California Community Colleges
GLBTQ+ Asian Pacific Alliance (GAPA)
Larkin Street Youth Services
Los Angeles Gay & Lesbian Chamber of Commerce
Santa Barbara Women's Political Committee
University of California Student Association

Opposition

None on file.

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