

Date of Hearing: April 11, 2023

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Mike Fong, Chair
AB 760 (Wilson) – As Introduced February 13, 2023

SUBJECT: California State University and University of California: records: affirmed name and gender identification

SUMMARY: Requires the Trustees of the California State University (CSU), and requests the Regents of the University of California (UC), to implement a process by which students, staff, and faculty can declare an affirmed name, gender, or both name and gender identification to be used in records where legal names are not required by law. Specifically, **this bill:**

- 1) Requires Trustees of the CSU, and requests the Regents of the UC, to implement a system by which current students, staff, and faculty can declare an affirmed name, gender, or both name and gender identification to be used in their records where legal names are not required by law.
- 2) Specifies that, upon the request of an individual, a CSU campus will, and a UC campus is requested to, update any records for current students, staff, and faculty to include the affirmed name, gender, or both name and gender identification. The records that will be updated include, at a minimum, all of the following:
 - a) School-issued email addresses;
 - b) Campus identification cards (ID);
 - c) Class rosters;
 - d) Transcripts; and,
 - e) Diplomas, as specified, certificates of completion of courses, or similar records.
- 3) Commencing with the 2024–25 academic year, CSU campus systems shall, and UC campus systems are requested to, be fully capable of allowing current students, staff, or faculty to declare an affirmed name, gender, or both name and gender identification.
- 4) Specifies that a CSU campus will not, and a UC campus is requested not to, charge a higher fee for correcting, updating, or reissuing a document or record based on the declaration of an affirmed name or gender identification than the fee it charges for correcting, updating, or reissuing that document or record generally.

EXISTING LAW:

- 1) The Donahoe Higher Education Act establishes the California Community Colleges (CCC), under the administration of the Board of Governors (BOG) of the CCC, as one of the segments of public postsecondary education in this state. (Education Code (EDC) Section 70900)

- 2) The Equity in Higher Education Act requires a public postsecondary educational institution, including a campus of the CCC, to update a former student's records to include an updated legal name or gender if the institution receives government-issued documentation from a former student demonstrating that the former student's legal name or gender has been changed. (EDC Section 66271.4)
- 3) Requires the governing board of each community college district to implement a process by which current students, staff, and faculty can declare an affirmed name, gender, or both name and gender identification to be used in records where legal names are not required by law. Existing law prohibits a community college campus from charging a higher fee for correcting, updating, or reissuing a document or record based on the declaration of an affirmed name or gender identification than the fee it charges for correcting, updating, or reissuing that document or record generally. (EDC Section 66271.41)

FISCAL EFFECT: Unknown.

COMMENTS: *Purpose.* According to the author, “as a mother of a transgender child, I am deeply committed to ensuring the safety, inclusivity, and mental health of all transgender people. A chosen and affirmed name helps transgender or non-binary individuals feel comfortable by being referred to by a name that is more representative of their gender identity. The use of a student's name assigned at birth rather than their chosen or affirmed name is termed 'deadnaming.' Specifically for transgender and non-binary individuals, being deadnamed by incorrect student records can lead to unwanted outing, bullying, discrimination, violence, and loss of employment opportunities in the future. AB 760 would require the California State University and University of California systems to implement a process by which current students, staff, and faculty can declare an affirmed name, gender, or both name and gender identification to be used in records where legal names are not required by law.”

What does it mean to identify as a transgender person or nonbinary 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.”

According to GLADD, “nonbinary is a word used by people who experience their gender identity and/or gender expression as falling outside the binary gender categories of ‘man’ and ‘woman.’ Many nonbinary people also call themselves transgender and consider themselves part of the transgender community. Others do not. Nonbinary is an umbrella term that encompasses many different ways to understand one's gender.”

The implications of being “outed” or “deadnamed.” Transgender and nonbinary-identifying CSU and UC students may wish to have their school-issued email addresses, campus ID cards, class rosters, and transcripts to reflect their current and preferred name and gender. The 2015 U.S. Transgender Survey – California State Report revealed 63% of transgender and gender nonconforming individuals did not have their chosen name or accurate gender on their identification.

Information 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" a student's gender identity. 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. The Lieutenant Governor of California, the Honorable Elani Kounalakis, wrote in support, noting that, "currently, most colleges do not provide an option for transgender and nonbinary students, faculty, and staff whose chosen name is different from their legal name to have their chosen name and pronouns reflected in their school records. This ultimately leaves people at risk of being deadnamed (referred to by the name they were assigned at birth rather than by their affirmed or chosen name). Being deadnamed puts people at risk of discrimination or harm. AB 760 will help to support current students, staff, or faculty members who wish to use an affirmed name and gender identification – an essential step towards fostering a campus environment that is inclusive and supportive."

The California Teachers Association (CTA) also wrote in support of AB 760 (Wilson), writing that "CTA believes all persons, regardless of actual or perceived gender, sexual orientation, or gender identity and expression, should be afforded equal opportunity within the public education system. This common-sense bill is a crucial step in creating an inclusive and safe environment for all; it allows individuals to use their preferred name and gender on campus, which can be an important part of self-expression and identity. It also allows them to be addressed, referred to, and treated in a way that is consistent with their affirmed identity. Additionally, a system like this could help to reduce potential confusion or misunderstandings due to mismatched personal and legal names, gender pronouns, and gender-based discrimination. Finally, having an affirmed name and gender system allows institutions to show their commitment to creating a welcoming and supportive campus for all."

Prior legislation. AB 2315 (Arambula), Chapter 932, Statutes of 2022, requires the governing board of each community college district (CCD) to implement a process by which current students, staff, and faculty can declare an affirmed name, gender, or both name and gender identification to be used in records where legal names are not required by law.

AB 245 (Chiu), Chapter 555, Statutes of 2021, required a campus of the University of California (UC), California State University (CSU), or 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.

AB 2023 (Chiu, 2020) was essentially identical to this AB 245, and was held in the Assembly Higher Education Committee due to COVID 19 restrictions.

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

AFSCME
California Teachers Association
Faculty Association of California Community Colleges
Lieutenant Governor Eleni Kounalakis
Individual

Opposition

None on file

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