



on protocols may provide for referrals to local community treatment centers. Requires that the written procedure or protocols referenced include:

- a) The college policy regarding sexual assault on campus;
  - b) Personnel on campus who should be notified, and procedures for notification, with the consent of the victim;
  - c) Legal reporting requirements, and procedures for fulfilling them;
  - d) Services available to victims, and personnel responsible for providing these services, such as the person assigned to transport the victim to the hospital, to refer the victim to a counseling center, and to notify the police, with the victim's concurrence;
  - e) A description of campus resources available to victims, as well as appropriate off-campus services;
  - f) Procedures for ongoing case management, including procedures for keeping the victim informed of the status of any student disciplinary proceedings in connection with the sexual assault, and the results of any disciplinary action or appeal, and helping the victim deal with academic difficulties that may arise because of the victimization and its impact;
  - g) Procedures for guaranteeing confidentiality and appropriately handling requests for information from the press, concerned students, and parents; and,
  - h) Each victim of sexual assault should receive information about the existence of at least the following options: criminal prosecutions, civil prosecutions, the disciplinary process through the college, the availability of mediation, alternative housing assignments, and academic assistance alternatives. (EDC § 67385)
- 5) Specifies that (3) and (4) above only apply to the University of California (UC) to the extent that the Regents of the UC, by appropriate resolution, make that provision applicable.

## ANALYSIS

This bill requires the governing boards of each community college district, the Trustees of the California State University, the Board of Directors of the Hastings College of the Law, and the Regents of the UC to review and update as necessary, the written procedure or protocols relating to sexual assault each academic year in collaboration with sexual assault counselors and student, faculty, and staff representatives.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Strengthening college sexual assault policies is an important element in the prevention of sexual assault, dating

violence, and stalking. College policies commonly do not include primary prevention efforts, lack student input, and further traumatize survivors. When Institutions maintain inadequate policies, colleges create a campus climate that condones violence, silences survivors, and reduces equal access to the benefits of a college education.

It is crucial that we reinforce and improve policies and procedures to address policy weaknesses and ensure best practices by students, faculty, and sexual assault counselors who directly work with students and or are impacted by such policies. The revision and update of sexual assault policies will guide colleges, and universities in supporting students. Students deserve to encounter a system that not only provides trauma-informed, coordinated support services, but adopts holistic policies and practices to address sexual assault and harassment.”

- 2) ***The Jeanne Cleary Disclosure Act (Cleary Act).*** The Cleary Act addresses campus safety by requiring institutions of higher education to disclose campus crime statistics and security policies. The U.S. Department of Education, Federal Student Aid office conducts reviews to evaluate an institution’s compliance with the Cleary Act requirements. A review may be initiated when a complaint is received, a media event raises certain concerns, the school’s independent audit identifies serious non-compliance, or through a review selection process that may also coincide with state reviews performed by the FBI’s Criminal Justice Information Service (CJIS) Audit Unit.
- 3) ***Title IX generally.*** Title IX, which prohibits discrimination on the basis of sex in federal funding programs or activities in any educational program or activity that receives federal funding. This includes most schools, including private institutions and grades K-12. Title IX addresses sexual harassment, sexual violence, or any gender-based discrimination that may deny a person access to educational benefits and opportunities. Under Title IX, schools must ensure that all students have equal access to education, regardless of gender, sexual orientation, or gender identity. Sexual harassment and sexual violence are forms of gender discrimination that are prohibited by Title IX, including when the incident(s) occur off-campus or involve people who are not students.

When a student has experienced a hostile environment such as sexual assault or severe, pervasive, and objectively offensive sexual harassment, schools must stop the discrimination, prevent its recurrence, and address its effects. This includes retaliation from other students, school administrators, or faculty.

- 4) ***Concerning statistics.*** According to the Partnership Against Domestic Violence and the National Coalition Against Domestic Violence, “college-aged women (between the ages of 16-24) have the highest per capita rate of intimate partner violence. Twenty-one percent of college students report having experienced dating violence by a current partner, and 32 percent of college students report experiencing dating violence by a previous partner. Peer pressure, the presence of drugs and alcohol, stressful schedules, tight-knit friend groups and social media contribute to higher rates of abuse, sexual assault and stalking for students. In addition, young adults often have limited relationship experience and may never have had someone talk with them about what healthy, affirming

relationships should look like. Experiencing violence and abuse in the home, as well as unhealthy and abusive dating relationships in high school can also increase the risk for someone finding themselves in an abusive relationship in college.”

- 5) ***Applicability to the University of California (UC).*** The provisions of this bill reside within the Donahue Higher Education Act. Due the UC’s constitutional autonomy, existing law provides that provisions within the Donahue Higher Education Act are only applicable to the UC to the extent that the Regents of the UC, by appropriate resolution, make that provision applicable. Accordingly, the bill’s requirement to review and update as necessary the procedure and protocols relating to sexual assault will only apply to the UC if the Regents adopt a resolution to do so.

- 6) ***Clarifying when collaboration needs to occur.*** This bill provides that the written procedure or protocols shall be reviewed, and updated as necessary, each academic year in collaboration with sexual assault counselors and student, faculty, and staff representatives. In light of concerns raised by the California State University, staff recommends that the bill be amended to clarify that the collaboration required by the bill is for the update, not the review, as described below:

“The written procedure or protocols adopted pursuant to subdivision (a) shall be reviewed *annually*, and updated as necessary; ~~each academic year~~ in collaboration with sexual assault counselors and student, faculty, and staff representatives.”

- 7) ***Related and previous legislation.*** SB 493 (Jackson, 2019) requires higher education institutions to, among other things, adopt rules and procedures for the prevention of sexual harassment, and adopt and post on their Web sites the grievance procedures to resolve complaints of sexual harassment.

SB 169 (Jackson, 2017) would have required K-12 schools to use a “preponderance of evidence” standard to decide whether an incident of sexual harassment or violence occurred; required higher education institutions to, among other things, adopt rules and procedures for the prevention of sexual harassment, and adopt and post on their Web sites the grievance and investigation procedures to resolve complaints of sexual harassment. SB 169 was vetoed by the Governor.

SB 1375 (Jackson, Chapter 655, Statutes of 2016) requires all schools receiving federal funding to post the following information on their Web site: the name and contact information of their Title IX Coordinator; the rights of a pupil and the public, and the responsibilities of the school under Title IX; a description of how to file a complaint under Title IX. SB 1375 also requires the State Superintendent of Public Instruction to electronically send an annual letter to all schools notifying them of this responsibility.

AB 2654 (Bonilla, Chapter 107, Statutes of 2016) requires postsecondary educational institutions to post their written policy on sexual harassment on their

internet web sites. AB 2654 also requires the policy to include information on the complaint process and the timeline for the complaint process. The policy must include information on where to obtain the specific rules and procedures for pursuing available remedies and resources, both on and off campus.

SB 967 (DeLeón, Chapter 748, Statutes of 2014) requires the governing boards of California community college districts, the Trustees of the California State University system, and the Regents of the University of California, as well as the governing boards of independent postsecondary institutions in California to adopt victim-centered sexual assault, domestic violence, dating violence, and stalking policies as a condition of receiving state funds for student financial assistance.

**SUPPORT**

None received

**OPPOSITION**

None received

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