

AMENDED IN SENATE JUNE 27, 2016

AMENDED IN SENATE JUNE 24, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 969

Introduced by Assembly Member Williams
(Coauthors: Assembly Members Bonilla, Cristina Garcia, Low,
McCarty, Rendon, Rodriguez, and Waldron)
(Coauthors: Senators Hill and Leyva)

February 26, 2015

~~An act to amend Section 76038 of the Education Code, relating to community college districts. An act to add and repeal Section 67386.5 of the Education Code, relating to postsecondary education.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 969, as amended, Williams. ~~Community college districts: removal, suspension, or expulsion. Postsecondary education: sexual assault cases.~~

Existing law establishes the University of California, under the administration of the Regents of the University of California, the California State University, under the administration of the Trustees of the California State University, the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, and independent institutions of higher education as the segments of postsecondary education in this state.

Existing law requires the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, if they adopt a specified resolution, and

the Board of Directors of the Hastings College of the Law to adopt, and implement at each of their respective campuses or other facilities, a written procedure or protocols to ensure, to the fullest extent possible, that students, faculty, and staff who are victims of sexual assault committed at or upon the grounds of, or upon off-campus grounds or facilities maintained by, the institution, receive treatment and information.

The bill would additionally require, until January 1, 2022, in order to receive state funds for student financial assistance, the governing board of each community college district, the Trustees of the California State University, the Regents of the University of California, and the governing board of each independent postsecondary institution to report, on or before October 1, 2018, and on an annual basis thereafter, specified data relating to cases of alleged sexual assault, domestic violence, dating violence, and stalking. The bill would require that report to be posted on the respective institution's Internet Web site in a manner easily accessible to students.

The bill would also require that the information reported pursuant to these provisions be reported in a manner that provides appropriate protections for the privacy of individuals involved, including, but not necessarily limited to, protection of the confidentiality of the alleged victim and of the alleged perpetrator.

~~Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of public postsecondary education in this state. Existing law establishes community college districts, each administered by a governing board, throughout the state, and authorizes these districts to provide instruction to students at the community college campuses maintained by the districts.~~

~~Existing law authorizes the governing board of a district to either deny enrollment, permit enrollment, or permit conditional enrollment to any individual who has been expelled from a community college within the preceding 5 years, or who is, at the time of the application, undergoing expulsion procedures, for certain offenses, as provided, if the board determines that the person continues to pose a risk to the safety of others. Existing law requires the board or a delegate to hold a hearing, before taking action to deny enrollment or permit conditional enrollment, to determine whether the person continues to pose a risk.~~

~~Existing law requires the governing board of each community college district, in order to receive state funds for student financial assistance,~~

~~to adopt policies concerning sexual assault, domestic violence, dating violence, and stalking that include certain elements, including an affirmative consent standard in the determination of whether consent was given by a complainant.~~

~~This bill would expand the authorization to either deny enrollment, permit enrollment, or permit conditional enrollment to apply to an individual who has been expelled from another community college district within the preceding 5 years, who is undergoing expulsion procedures in another district, for certain offenses or for a violation of a district's adopted policies concerning sexual assault, domestic violence, dating violence, and stalking described above. The bill would also authorize a community college district to require a student seeking admission to inform the community college district considering admitting the student if he or she has been previously expelled from a community college in the state for a violation of that community college's district-adopted policies concerning sexual assault, domestic violence, dating violence, and stalking. By imposing additional duties on a community college district, this bill would impose a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes-no.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 67386.5 is added to the Education Code,
2 to read:
3 67386.5. (a) (1) Notwithstanding Section 67400, in order to
4 receive state funds for student financial assistance, the governing
5 board of each community college district, the Trustees of the
6 California State University, the Regents of the University of
7 California, and the governing board of each independent
8 postsecondary institution shall report on or before October 1,

1 2018, and annually thereafter, all of the following information for
2 the prior calendar year:

3 (A) The number of sexual assault, domestic violence, dating
4 violence, and stalking complaints that were received by the
5 institution.

6 (B) The number of sexual assault, domestic violence, dating
7 violence, and stalking complaints that were investigated by the
8 institution.

9 (C) The number of sexual assault, domestic violence, dating
10 violence, and stalking complaints that were not investigated by
11 the institution.

12 (D) The number of investigations conducted pursuant to
13 subparagraph (B) in which the respondents were found responsible
14 at the disciplinary proceedings of the institution.

15 (E) The number of investigations conducted pursuant to
16 subparagraph (B) in which the respondents were not found
17 responsible at the disciplinary proceedings of the institution.

18 (F) The number of disciplinary sanctions imposed on
19 respondents who were found responsible as determined pursuant
20 to subparagraph (D) disaggregated by the type of discipline
21 imposed in, at minimum, the following categories:

22 (i) Expulsion.

23 (ii) Suspension of at least two years.

24 (iii) Suspension of fewer than two years.

25 (iv) Probation.

26 (G) The number of cases that were closed for other reasons.

27 (2) The report required pursuant to paragraph (1) shall be
28 posted on the institution's Internet Web site in a manner easily
29 accessible to students.

30 (b) For purposes of this section, "sexual assault, domestic
31 violence, dating violence, and stalking" refer to all of the
32 categories of misconduct in the institution's policy adopted
33 pursuant to Section 67386.

34 (c) The information reported pursuant to this section shall be
35 reported in a manner that provides appropriate protections for
36 the privacy of individuals involved, including, but not necessarily
37 limited to, protection of the confidentiality of the alleged victim
38 and of the alleged perpetrator, consistent with the federal Family
39 Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g).

1 (d) *This section shall remain in effect only until January 1, 2022,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2022, deletes or extends that date.*

4 SECTION 1. ~~Section 76038 of the Education Code is amended~~
5 ~~to read:~~

6 ~~76038. (a) If the governing board of a community college~~
7 ~~district receives an application for admission from an individual~~
8 ~~who has been expelled from another community college district~~
9 ~~pursuant to this article within the preceding five years, or who is~~
10 ~~undergoing expulsion procedures in another district, for any of the~~
11 ~~offenses listed in subdivision (b) or for a violation of a district's~~
12 ~~policies adopted pursuant to Section 67386, before taking action~~
13 ~~to deny enrollment or permit conditional enrollment as authorized~~
14 ~~by subdivision (f), the governing board or delegate pursuant to~~
15 ~~subdivision (g) shall hold a hearing, conducted in accordance with~~
16 ~~this section and the applicable rules and regulations governing~~
17 ~~enrollment hearings authorized by this section and adopted in~~
18 ~~accordance with Section 66300, to determine whether that~~
19 ~~individual poses a continuing danger to the physical safety of the~~
20 ~~students and employees of the district.~~

21 ~~(b) For purposes of this section, "offense" means one of the~~
22 ~~following:~~

23 ~~(1) Committed or attempted to commit murder.~~

24 ~~(2) Caused, attempted to cause serious, or threatened to cause~~
25 ~~physical injury to another person, including assault or battery as~~
26 ~~defined in Section 240 or 242 of the Penal Code, except in~~
27 ~~self-defense.~~

28 ~~(3) Committed or attempted to commit a sexual assault as~~
29 ~~defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal~~
30 ~~Code or committed sexual battery as defined in Section 243.4 of~~
31 ~~the Penal Code.~~

32 ~~(4) Committed or attempted to commit kidnapping, or seized,~~
33 ~~confined, inveigled, enticed, decoyed, abducted, concealed,~~
34 ~~kidnapped, or carried away another person by any means with the~~
35 ~~intent to hold or detain that person for ransom or reward.~~

36 ~~(5) Committed or attempted to commit robbery or extortion.~~

37 ~~(6) Committed stalking as defined in Section 646.9 of the Penal~~
38 ~~Code.~~

39 ~~(7) Unlawfully possessed, sold, or otherwise furnished a firearm,~~
40 ~~knife, explosive, or other dangerous object.~~

1 ~~(e) A community college district may request information, and~~
2 ~~respond to a request for information, from another community~~
3 ~~college district to determine whether an applicant continues to~~
4 ~~pose a danger to the physical safety of others.~~

5 ~~(d) A community college district may require a student seeking~~
6 ~~admission who has been previously expelled from a community~~
7 ~~college in the state for any of the actions listed in subdivision (b)~~
8 ~~to inform the district of his or her prior expulsion. Failure to do so~~
9 ~~may be considered by the district in determining whether to grant~~
10 ~~admission, and a written record of the fact may be maintained by~~
11 ~~the district with the applicant's file.~~

12 ~~(e) A community college district may require a student seeking~~
13 ~~admission who has been previously expelled from a community~~
14 ~~college in the state for a violation of that district's policies adopted~~
15 ~~pursuant to Section 67386 to inform the district considering~~
16 ~~admitting the student of his or her prior expulsion. Failure to do~~
17 ~~so may be considered by the district in determining whether to~~
18 ~~grant admission, and a written record of the fact may be maintained~~
19 ~~by the community college district with the applicant's file.~~

20 ~~(f) The governing board of a community college district, upon~~
21 ~~making a determination pursuant to subdivision (a), shall take into~~
22 ~~consideration evidence of subsequent offenses and rehabilitative~~
23 ~~efforts since the offense and may take any of the following actions:~~

24 ~~(1) Deny enrollment.~~

25 ~~(2) Permit enrollment.~~

26 ~~(3) Permit conditional enrollment.~~

27 ~~(g) The governing board of a community college district may~~
28 ~~delegate any authority under this section to the superintendent or~~
29 ~~president of a community college district, or his or her designee,~~
30 ~~or a threat assessment crisis response team pursuant to rules and~~
31 ~~regulations adopted pursuant to Section 66300.~~

32 ~~(h) Before the governing board of a community college district~~
33 ~~takes action as authorized under this section, the governing board~~
34 ~~shall establish a formal appeals process for students denied~~
35 ~~enrollment to appeal the decision to the governing board. A student~~
36 ~~who is denied enrollment under subdivision (f) may appeal the~~
37 ~~decision to deny enrollment to the governing board of the~~
38 ~~community college district.~~

39 ~~(i) This section shall not be construed to impose any duty on a~~
40 ~~community college district to review applicants for admission or~~

1 review previously enrolled students, whether returning or
2 continuing, or to conduct a hearing in response to the receipt of
3 any information regarding a potential, former, or existing student.

4 (j) In accordance with Sections 815.2 and 820.2 of the
5 Government Code, a community college district, a member of the
6 governing board of a community college district, an officer or
7 employee of a community college district, including a
8 superintendent of a community college district, a president of a
9 community college district, and the designee of a president or a
10 superintendent, shall not be liable for an injury resulting from an
11 exercise of discretion pursuant to this section, including, but not
12 limited to, an exercise of discretion not to conduct a hearing when
13 a hearing is not required.

14 (k) This section shall not apply to the admission of students
15 whom a community college district has discretion to admit pursuant
16 to Section 76000.

17 SEC. 2. If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.