

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1439**

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**Introduced by Senator Block**

February 19, 2016

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An act to add Sections ~~87604.5 and 89521~~ 87604.5, 89521, and 92612.1 to the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 1439, as amended, Block. Postsecondary education: academic and administrative employees: disclosure of sexual harassment.

(1) Under existing law, the segments of postsecondary education in this state include the ~~California State~~ *University of California, the California State University*, and the California Community Colleges. Existing law authorizes the governing board of each community college district and the Trustees of the California State University to employ persons in academic and administrative positions in order to carry out the functions of their respective institutions. *The California Constitution provides that the University of California constitutes a public trust administered by the Regents of the University of California, a corporation in the form of a board, with full powers of organization and government, subject to legislative control only for specified purposes.*

This bill would require ~~community college district governing boards and the Regents of the University of California~~, the Trustees of the California State ~~University~~ *University*, and the community college district governing boards to require ~~that an application~~ as part of the

*hiring process for an appointment to an academic or administrative position with that district or with the California State University, as appropriate, include a requirement that the applicant disclose any final administrative decision, as defined, or final judicial decision, as defined, determining that the applicant committed sexual harassment. The bill would prohibit the University of California, the California State University, or a community college district from asking an applicant to disclose, orally or in writing, information concerning any final administrative decision or final judicial decision described above, including any inquiry about an applicable decision on any employment application, until it has determined that the applicant meets the minimum employment qualifications stated in the notice issued for the position.*

To the extent that these provisions would impose new requirements on community college district governing boards, this bill would constitute a state-mandated local program.

(2) 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.

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

1 SECTION 1. Section 87604.5 is added to the Education Code,  
2 to read:  
3 87604.5. (a) The governing board of a community college  
4 district shall require that an application as part of the hiring process  
5 for an appointment to an academic or administrative position with  
6 that district include a requirement that the applicant disclose any  
7 final administrative decision or final judicial decision determining  
8 that the applicant committed sexual harassment.  
9 (b) A community college district shall not ask an applicant to  
10 disclose, orally or in writing, information concerning any final  
11 administrative decision or final judicial decision described in  
12 subdivision (a), including any inquiry about an applicable decision  
13 on any employment application, until the community college district

1 *has determined that the applicant meets the minimum employment*  
2 *qualifications stated in the notice issued for the position.*

3 *(c) This section shall not be construed to prevent a community*  
4 *college district from conducting a background check after*  
5 *complying with subdivision (b).*

6 ~~(b)~~

7 *(d) For purposes of this section, the following definitions shall*  
8 *apply:*

9 (1) “Final administrative decision” means a final determination  
10 based on the investigative findings of a Title IX compliance  
11 coordinator, or other designated investigator, at a college or  
12 university on a complaint of sexual harassment.

13 (2) “Final judicial decision” means a final determination of a  
14 matter submitted to a court that is recorded in a judgment or order  
15 of that court.

16 SEC. 2. Section 89521 is added to the Education Code, to read:

17 89521. (a) The trustees shall require ~~that an application as~~  
18 *part of the hiring process for an appointment to an academic or*  
19 *administrative position with the California State University include*  
20 ~~a requirement~~ *that the applicant disclose any final administrative*  
21 *decision or final judicial decision determining that the applicant*  
22 *committed sexual harassment.*

23 *(b) The California State University shall not ask an applicant*  
24 *to disclose, orally or in writing, information concerning any final*  
25 *administrative decision or final judicial decision described in*  
26 *subdivision (a), including any inquiry about an applicable decision*  
27 *on any employment application, until the California State*  
28 *University has determined that the applicant meets the minimum*  
29 *employment qualifications stated in the notice issued for the*  
30 *position.*

31 *(c) This section shall not be construed to prevent the California*  
32 *State University from conducting a background check after*  
33 *complying with subdivision (b).*

34 ~~(b)~~

35 *(d) For purposes of this section, the following definitions shall*  
36 *apply:*

37 (1) “Final administrative decision” means a final determination  
38 based on the investigative findings of a Title IX compliance  
39 coordinator, or other designated investigator, at a college or  
40 university on a complaint of sexual harassment.

1 (2) “Final judicial decision” means a final determination of a  
 2 matter submitted to a court that is recorded in a judgment or order  
 3 of that court.

4 *SEC. 3. Section 92612.1 is added to the Education Code, to*  
 5 *read:*

6 *92612.1. (a) The regents shall require as part of the hiring*  
 7 *process for an appointment to an academic or administrative*  
 8 *position with the University of California that the applicant*  
 9 *disclose any final administrative decision or final judicial decision*  
 10 *determining that the applicant committed sexual harassment.*

11 *(b) The University of California shall not ask an applicant to*  
 12 *disclose, orally or in writing, information concerning any final*  
 13 *administrative decision or final judicial decision described in*  
 14 *subdivision (a), including any inquiry about an applicable decision*  
 15 *on any employment application, until the University of California*  
 16 *has determined that the applicant meets the minimum employment*  
 17 *qualifications stated in the notice issued for the position.*

18 *(c) This section shall not be construed to prevent the University*  
 19 *of California from conducting a background check after complying*  
 20 *with subdivision (b).*

21 *(d) For purposes of this section, the following definitions shall*  
 22 *apply:*

23 *(1) “Final administrative decision” means a final determination*  
 24 *based on the investigative findings of a Title IX compliance*  
 25 *coordinator, or other designated investigator, at a college or*  
 26 *university on a complaint of sexual harassment.*

27 *(2) “Final judicial decision” means a final determination of a*  
 28 *matter submitted to a court that is recorded in a judgment or order*  
 29 *of that court.*

30 ~~SEC. 3.~~

31 *SEC. 4. If the Commission on State Mandates determines that*  
 32 *this act contains costs mandated by the state, reimbursement to*  
 33 *local agencies and school districts for those costs shall be made*  
 34 *pursuant to Part 7 (commencing with Section 17500) of Division*  
 35 *4 of Title 2 of the Government Code.*