

AMENDED IN ASSEMBLY AUGUST 15, 2016

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1439

Introduced by Senator Block

(Coauthor: Senator Hancock)

(Coauthors: Assembly Members Bonilla and Cristina Garcia)

February 19, 2016

An act to add Sections 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 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 the Regents of the University of California, the Trustees of the California State University, and the community

college district governing boards to require as part of the hiring process for an appointment to an academic or administrative position 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 as part of the hiring process for an appointment
 5 to an academic or administrative position with that district that the
 6 applicant disclose any final administrative decision or final judicial
 7 decision determining that the applicant committed sexual
 8 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

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

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

7 ~~(d)~~

8 (c) For purposes of this section, the following definitions shall
9 apply:

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

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

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

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

35 (c) 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 disclose
9 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)~~

22 (c) For purposes of this section, the following definitions shall
23 apply:

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

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

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.