

Assembly Bill No. 2350

CHAPTER 637

An act to add Section 66281.7 to the Education Code, relating to postsecondary education.

[Approved by Governor September 26, 2014. Filed with Secretary of State September 26, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2350, Bonilla. Postsecondary education: Equity in Higher Education Act: prevention of pregnancy discrimination.

Existing law, known as the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education and their respective institutions of higher education. Provisions of the act apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make a provision applicable.

A portion of the Donahoe Higher Education Act known as the Equity in Higher Education Act declares, among other things, that it is the policy of the State of California that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institutions of the state.

This bill would express various legislative findings and declarations relating to pregnancy discrimination. The bill would add to the Equity in Higher Education Act a provision specifying that this policy of freedom from discrimination includes, but is not limited to, freedom from pregnancy discrimination as described in a specified federal statute.

This bill would prohibit postsecondary educational institutions, including the faculty, staff, or other employees of these institutions, from requiring a graduate student to take a leave of absence, withdraw from the graduate program, or limit his or her graduate studies solely due to pregnancy or pregnancy-related issues. The bill would require postsecondary educational institutions, including the faculty, staff, or other employees of these institutions, to reasonably accommodate pregnant graduate students, as specified, so that they may complete their graduate courses of study and research.

The bill would also allow a graduate student who chooses to take a leave of absence because she is pregnant or has recently given birth a period consistent with the policies of the postsecondary educational institution, or a period of 12 additional months, whichever period is longer, to prepare for and take preliminary and qualifying examinations and an extension of at least 12 months toward normative time to degree while they are in candidacy for a graduate degree, unless a longer extension is medically necessary. The

bill would allow a graduate student who is not the birth parent and who chooses to take a leave of absence because of the birth of his or her child a period consistent with the policies of the postsecondary educational institution, or a period of one month, whichever period is longer, to prepare for and take preliminary and qualifying examinations, and an extension of at least one month toward normative time to degree while he or she is in candidacy for a graduate degree, unless a longer period or extension is medically necessary to care for his or her partner or their child.

The bill would provide that an enrolled graduate student in good academic standing who chooses to take a leave of absence because she is pregnant or has recently given birth would return to her program in good academic standing following a leave period that is consistent with the policies of the postsecondary educational institution, or a period of up to one academic year, whichever period is longer, subject to the reasonable administrative requirements of the institution, unless there is a medical reason for a longer absence, in which case her standing in the graduate program would be maintained during that period of absence. The bill would also provide that an enrolled graduate student in good academic standing who is not the birth parent and who chooses to take a leave of absence because of the birth of his or her child would return to his or her program in good academic standing following a leave period that is consistent with the policies of the postsecondary educational institution, or a period of up to one month, whichever period is longer, subject to the reasonable administrative requirements of the institution.

The bill would require each postsecondary educational institution to have a written policy for graduate students on pregnancy discrimination and procedures for addressing pregnancy discrimination complaints under Title IX or this bill. The bill would require a copy of this policy to be made available to faculty, staff, and employees in their required training, and made available to all graduate students attending orientation sessions at a postsecondary educational institution.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.) is best known for providing equity to female and male athletics, but it also specifically addresses pregnancy discrimination.

(b) In 2012, the Obama administration began an initiative to increase the number of women in the science, technology, engineering, and mathematics (STEM) fields. President Obama tasked the United States Department of Education to lead an initiative with the Department of Justice, the Department of Energy, the National Aeronautics and Space Administration, the National Science Foundation, and the Department of Health and Human Services to create a common guidance program to ensure that grant recipients are complying with Title IX.

(c) The federal initiative focuses on women scientists, but Title IX compliance is also incredibly important across all academic fields at all colleges and universities.

(d) Preventing pregnancy discrimination in the STEM fields is particularly important because it is known to hinder the advancement of women in these fields. For example, even though women represent between 35 and 40 percent of graduate students in chemistry, less than 13 percent of faculty at the top 50 universities in the United States are women.

(e) According to a survey of doctorate recipients by the National Science Foundation, “women who are married with children in the sciences are 35 percent less likely to enter a tenure track position after receipt of their Ph.D. than married men with children, and they are 27 percent less likely than their male counterparts to achieve tenure upon entering a tenure track job.”

(f) The same phenomenon has appeared in non-STEM fields, as studies indicate that married mothers who earn Ph.D.s are 28 percent less likely to obtain a tenure track job than are married men with children who earn Ph.D.s.

(g) While attending graduate school, many graduate students move in and out of university employment. This affects their eligibility for benefits and pregnancy accommodations, except for their protections under Title IX.

(h) Many universities and colleges are not in compliance with Title IX, and students are unaware that they are protected from pregnancy discrimination.

(i) Preventing pregnancy discrimination against graduate students is important for both genders so that both men and women can bond with new children and have a framework within which to approach these discussions with their academic institutions.

SEC. 2. Section 66281.7 is added to the Education Code, immediately following Section 66281.5, to read:

66281.7. (a) It is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind, including, but not limited to, pregnancy discrimination as described in Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), in the postsecondary educational institutions of the state.

(b) Each of the following requirements shall be applicable to postsecondary educational institutions in this state:

(1) A postsecondary educational institution, including the faculty, staff, or other employees of the institution, shall not require a graduate student to take a leave of absence, withdraw from the graduate program, or limit his or her graduate studies solely due to pregnancy or pregnancy-related issues.

(2) A postsecondary educational institution, including the faculty, staff, or other employees of the institution, shall reasonably accommodate pregnant graduate students so they may complete their graduate courses of study and research. Reasonable accommodation within the meaning of this subdivision may include, but is not necessarily limited to, allowances for the pregnant student’s health and safety, such as allowing the student to maintain a safe

distance from hazardous substances, allowing the student to make up tests and assignments that are missed for pregnancy-related reasons, or allowing a student to take a leave of absence. Reasonable accommodation shall include the excusing of absences that are medically necessary, as required under Title IX.

(3) A graduate student who chooses to take a leave of absence because she is pregnant or has recently given birth shall be allowed a period consistent with the policies of the postsecondary educational institution, or a period of 12 additional months, whichever period is longer, to prepare for and take preliminary and qualifying examinations and an extension of at least 12 months toward normative time to degree while in candidacy for a graduate degree, unless a longer extension is medically necessary.

(4) A graduate student who is not the birth parent and who chooses to take a leave of absence because of the birth of his or her child shall be allowed a period consistent with the policies of the postsecondary educational institution, or a period of one month, whichever period is longer, to prepare for and take preliminary and qualifying examinations, and an extension of at least one month toward normative time to degree while in candidacy for a graduate degree, unless a longer period or extension is medically necessary to care for his or her partner or their child.

(5) An enrolled graduate student in good academic standing who chooses to take a leave of absence because she is pregnant or has recently given birth shall return to her program in good academic standing following a leave period consistent with the policies of the postsecondary educational institution or of up to one academic year, whichever period is longer, subject to the reasonable administrative requirements of the institution, unless there is a medical reason for a longer absence, in which case her standing in the graduate program shall be maintained during that period of absence.

(6) An enrolled graduate student in good academic standing who is not the birth parent and who chooses to take a leave of absence because of the birth of his or her child shall return to his or her program in good academic standing following a leave period consistent with the policies of the postsecondary educational institution, or of up to one month, whichever period is longer, subject to the reasonable administrative requirements of the institution.

(c) Each postsecondary educational institution shall have a written policy for graduate students on pregnancy discrimination and procedures for addressing pregnancy discrimination complaints under Title IX or this section. A copy of this policy shall be made available to faculty, staff, and employees in their required training. This policy shall be made available to all graduate students attending orientation sessions at a postsecondary educational institution.