

2022 LEGISLATIVE UPDATE

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November 10, 2021

**Equity
Programs &
Compliance**

**AB 1281, Blanca Rubio. Criminal procedure:
protective orders**

**AB 887, Levine. Domestic violence: restraining
orders**

**AB 245, Chiu. Educational equity: student
records: name and gender changes**

AB 367, Cristina Garcia. Menstrual Products

AB 1281, Blanca Rubio. Criminal procedure: protective orders

This bill would specify that dismissal of a pleading under any of these processes does not invalidate a protective order, as previously described, that was issued to the defendant in that case, and would clarify that such an order remains in effect until the order expires or is modified by the issuing court, despite the dismissal of the underlying pleading.

AB 887, Levine. Domestic violence: restraining orders

This bill would provide that domestic violence restraining orders or temporary restraining orders may be submitted electronically, as specified. The bill would authorize the petitioner to elect to receive documents by regular mail or to retrieve them from the court. The bill would also prohibit any fee for filing a petition pursuant to these provisions. The bill would require the Judicial Council to develop or amend rules and forms as necessary to implement those provisions. The bill would make those provisions operative only upon an appropriation of funds for those purposes

AB 245, Chiu. Educational equity: student records: name and gender changes

This bill, as part of the Donahoe Higher Education Act, would require a campus of the University of California, California State University, or California Community Colleges to update a former student's records to include the student's updated legal name or gender if the institution receives government-issued documentation, as described, from the student demonstrating that the former student's legal name or gender has been changed. The bill would require the institution to reissue specified documents conferred upon, or issued to, the former student with the former student's updated legal name or gender, if requested by the former student.

AB 245, Chiu. Educational equity: student records: name and gender changes

The bill would prohibit an institution from charging a higher fee for correcting, updating, or reissuing a document based on a legal name or gender change than the fee it charges for correcting, updating, or reissuing that document generally. Commencing with the 2023–24 graduating class, the bill would require an institution to provide an option for a graduating student to request that the diploma to be conferred by the institution list the student’s chosen name, as specified.

AB 367, Cristina Garcia. Menstrual products

This bill would require the California State University and each community college district, and would encourage the Regents of the University of California and private universities, colleges, and institutions of higher learning, to stock an adequate supply of menstrual products, available and accessible, free of cost, at no fewer than one designated and accessible central location on each campus and to post a designated notice, as provided.

SF State Already Provides Free Menstrual Products

SF State has been among the group of campuses that have been providing free menstrual products to student for many years. Student can pick up free products at HPW, Student Health Services, Cesar Chavez Student Center, and starting just recently the Mashouf Wellness Center.

TITLE IX/DHR OVERVIEW & REPORTING RESPONSIBILITIES

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WHAT CONSTITUTES PROHIBITED CONDUCT?

TITLE IX

- Sexual Misconduct
- Dating Violence
- Domestic Violence
- Stalking
- Sexual Harassment
- Consensual Relationships

DHR

- **D**iscrimination (Protected Status)
- **H**arassment (Protected Status)
- **R**etaliation

WHAT IS TITLE IX?

Title IX is the Federal Civil Rights Law that states,

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance...”

Universities must comply with Title IX to ensure that all members of the campus community can participate equitably in educational activity and programming.



WHAT CONSTITUTES DISCRIMINATION?

Discrimination means Adverse Action taken against a Student, Employee or a Third Party by the CSU, a CSU employee or another Student because of a Protected Status.

Adverse Action means an action that has a substantial and material adverse effect on the Complainant's ability to participate in a University program or activity free from Discrimination, Harassment or Retaliation. Minor or trivial actions or conduct not reasonably likely to do more than anger or upset a Complainant does not constitute an Adverse Action.



WHAT CONSTITUTES HARASSMENT?

Harassment means unwelcome conduct, based on the Complainant's Protected Status, that is sufficiently severe, persistent or pervasive that its effect, whether or not intended, could be considered by a reasonable person in the shoes of the Complainant, and is in fact considered by the Complainant, as limiting her/his ability to participate in or benefit from the services activities or opportunities offered by the University.



WHAT CONSTITUTES A PROTECTED STATUS?

Protected Status includes

Age

Disability (physical or mental)

Gender (or sex)

Genetic Information

Gender Identity (including transgender)

Gender Expression

Marital Status

Medical Condition



WHAT CONSTITUTES A PROTECTED STATUS (cont'd)?

Nationality

Race or Ethnicity (including color, ancestry, ethnic group identification and ethnic background)

Religion or Religious Creed (includes all aspects of religious belief, observance and practice, including religious dress and grooming practices, and includes agnosticism and atheism)

Sexual Orientation

Veteran Status

Military Status



WHAT CONSTITUTES RETALIATION?

Retaliation means Adverse Action taken against a person because the person has or believed to have:

Exercised rights under Executive Order 1096 or 1097;

Reported or opposed conduct which reasonably and in good faith believed to be in violation of Executive Order 1096 or 1097;

Assisted or participated in a policy-related investigation/proceeding regardless of whether the Complaint was substantiated; or,

Assisted someone in reporting or opposing a violation of Executive Order 1096 or 1097, or assisted someone in reporting or opposing Retaliation under an Executive Order



WHAT CONSTITUTES RETALIATION (cont'd)?

Retaliation may occur whether or not there is a power or authority differential between the individuals involved.



SF State Employees MUST Report Prohibited Behavior

WHO

WHAT

WHEN

WHERE

HOW

SF State Employees MUST Report Prohibited Behavior

With limited exceptions, any Employee who knows or has reason to know of allegations or acts that violate University policies shall promptly inform the DHR Administrator or Title IX Coordinator. These Employees are required to disclose all information, including the names of the Parties, **even where the person has requested anonymity.**

CA. Ed. Code §66281.8

A postsecondary institution shall be presumed to know of sexual harassment if a responsible employee knew, or, in the exercise of reasonable care, should have known, about the sexual harassment.

CA. Ed. Code §66281.8

Regardless of whether or not a complaint has been filed under the institution's grievance procedures, if the institution knows, or reasonably should know, about possible sexual harassment involving individuals subject to the institution's policies at the time, the institution shall promptly investigate to determine whether the alleged conduct more likely than not occurred, or otherwise respond if the institution determines that an investigation is not required.

CA. Ed. Code §66281.8

If the institution determines that the alleged conduct more likely than not occurred, it shall immediately take reasonable steps to end the harassment, address the hostile environment, if one has been created, prevent its recurrence, and address its effects.

WHERE TO REPORT?

File a report online:

https://cm.maxient.com/reportingform.php?SFStateUniv&layout_id=3

The Title IX Coordinator/DHR Administrator at SF State is:

Heather Borlase, JD, MFS

Executive Director, Equity Programs & Compliance

Student Services Building, Room 403

Phone: (415) 338-2032

Email: **equityprograms@sfsu.edu** or **hborlase@sfsu.edu**

QUESTIONS?



THANK YOU!

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