
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No:	AB 2464	Hearing Date:	June 29, 2022
Author:	Cristina Garcia		
Version:	February 17, 2022		
Urgency:	No	Fiscal:	Yes
Consultant:	Ian Johnson		

Subject: California State University: employees: paid parental leave of absence.

SUMMARY

This bill requires the California State University (CSU) to grant an employee a leave of absence with pay for one semester of an academic year, or an equivalent duration, in a one-year period, following the birth of a child of the employee or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

BACKGROUND

Existing law:

- 1) Establishes the Donahoe Higher Education Act, setting forth the mission of the University of California (UC), CSU, and California Community Colleges (CCC).
- 2) Confers upon the CSU Trustees the powers, duties, and functions with respect to the management, administration, control of the CSU system and provides that the Trustees are responsible for the rule of government of their appointees and employees.
- 3) Requires the CSU Trustees to grant pregnancy leave without pay to female permanent employees for a period not exceeding one year, as determined by the employee except when the employee has notified the trustees as to the period of the leave of absence, any change in the length of the leave is not effective unless approved by the CSU Trustees.

ANALYSIS

This bill:

- 1) Specifies that the Trustees of the CSU will grant to an employee a leave of absence with pay for one semester of an academic year, or equivalent duration, in a one-year period, following the birth of a child of the employee or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.
- 2) Establishes that, for purposes of this legislation, "employee" means any employee, including student employees whose employment is contingent on their status as students, of the Regents of the UC, the Directors of the Hastings

College of the Law, or the Trustees of the CSU. However, managerial and confidential employees and employees whose principal place of employment is outside the State of California at a worksite with 100 or fewer employees are excluded from coverage, as specified.

- 3) Requires the leave of absence shall be taken in consecutive periods unless otherwise agreed to by mutual consent between the employee and an appropriate administrator. Only working days shall be charged against the leave of absence.
- 4) Specifies that, if the provisions conflict with the provisions of a memorandum of understanding (MOU) reached as specified, the memorandum of understanding shall be controlling without further legislative action, except that, if those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Trying to find time to start a family can be very difficult for those of us that work regimented careers; on top of the paid family leave that leaves us lacking bonding time. The CSU’s expectations for what faculty members have to do to spend time with their new children and allow their bodies to heal are unrealistic and disappointing. Faculty members, including K-12 teachers and school employees, often have to try to time the birth in order to maximize their time away from work. Basically, they have to schedule their birth. Addressing such disparities should begin by the [CSU] granting one full semester or the equivalent time in paid leave for parental bonding time. Not only will this increase new parent bonding time, it will also increase retention and morale among CSU employees.”
- 2) ***Parental leave is within the mandatory scope of the Higher Education Employer-Employee Relations Act.*** California’s Higher Education Employee-Employer Relations Act (HEERA) is the law that governs labor relations between public institutions of higher education and their employees. Under HEERA, terms and conditions of employment, such as wages, hours, and working conditions are considered to be within the mandatory scope of bargaining or scope of representation. Matters that are not within the scope of representation include: “consideration of the merits, necessity, or organization of any service, activity, or program established by statute or regulations adopted by the trustees, except for the terms and conditions of employment of employees who may be affected thereby.”

The Public Employer-Employee Relations Board (PERB) is responsible for enforcing HEERA. PERB has issued thousands of decisions regarding what matters are within the scope of HEERA, which generally are those matters that: (1) are reasonably related to wages, hours, or conditions of employment, (2) areas where management and employees are likely to conflict, and (3) areas that would not significantly abridge the employer’s freedom to exercise managerial choices.

- 3) **Background on contract negotiations.** The CSU and the California Faculty Association (CFA), the sponsors of this legislation, reached a tentative agreement on a successor contract in December of 2021. In February of 2022, CSU and CFA ratified that successor contract. The successor contract negotiated through collective bargaining did not include a leave of absence with pay.

On December 17, 2021, CSU and CFA formally agreed to meet within 60 days of the ratification of the successor collective bargaining agreement to form a workgroup to review parental support for faculty, at the CSU and other higher education institutions, along with leave utilization and trends within the CSU. The workgroup will create a report of their findings and that report will be given to the CSU Academic Senate, the CSU Board of Trustees, and the CSU Chancellor. The successor collective bargaining agreement was ratified on February 3, 2022; thus, 60 days from the date would have been April 4, 2022. The workgroup's first meeting was on June 6, 2022, and a report of findings will be completed in December 2022. To note, the signed parental support MOU established by the CSU may increase the number of paid parental leave days provided (30 days of paid leave, which runs concurrently with other parental, pregnancy disability, and/or family care and medical leave provisions) of the Collective Bargaining Agreement at any time.

- 4) **Arguments in support.** The CFA, the sponsor of this bill, writes that "The existing parental leave policy at the CSU provides for a maximum of 30 days of parental leave for its employees. This policy is woefully inadequate and uncompetitive for today's workplace. It does not allow enough time for parent/child bonding, and it may not be enough time for the body to heal following childbirth. It simply is a health and safety issue for our faculty members that needs to be addressed appropriately."

"AB 2464 would remedy this situation by requiring the CSU to provide employees a minimum of a full semester or two quarters of paid parental leave. A minimum would benefit students in many ways. If faculty are provided a semester off, there is less manipulation of schedules and pressure on faculty to find others to take over their workload. Much of that burden falls on faculty and adds to the stress soon-to-be parents are already facing. Providing for adequate parental leave will improve career advancement and will create greater equity for women faculty and particularly women faculty of color."

- 5) **Arguments in opposition.** The California State University is opposed to the measure and argues that this bill violates the collective bargaining process and removes the fiduciary responsibility entrusted with the Board of Trustees. They write, "While we agree with the author's goal of providing paid parental leave for the birth of a child or the placement of a child in connection with the adoption or foster care by the employee, the CSU believes these discussions should occur through the collective bargaining process rather than through legislation. Employees are currently entitled to six weeks of fully paid parental leave and can access more paid leave time with non-industrial disability insurance, vacation, and sick leave. The CSU has a diverse range of employees and has a history of

working with labor unions to address the specific needs of our represented employees. Unlike many parental leave programs that require employees to work for a specified amount of time to access the benefit, CSU generously allows its employees to access paid parental leave *immediately* upon employment. We also recognize that the general parameters of the generous leave options available to CSU employees may not fit the needs of all employees. This is reflected in the negotiated language used in our collective bargaining agreements (CBAs) which allow for equitable adjustments or flexibility in the application of these benefits.

“Unfortunately, AB 2464 goes outside of the collective bargaining process to extend paid parental leave from six weeks to sixteen weeks for all CSU employee groups except confidential and managerial employees. This significant expansion in both duration of leave time and number of eligible employees does not consider the fiscal impacts to the system. The bill is estimated to cost the system \$24.1 million annually. If more employees choose to utilize the benefit under this bill, the financial impact will be greater. The collective bargaining process allows both parties to consider factors unique to that employee group and customize the leave policy accordingly. When the CSU and California Faculty Association (CFA) ratified a new CBA on February 3, 2022, they signed a memorandum of understanding to form a parental support workgroup to review parental support for faculty and prepare a report of the findings. The parties have begun meeting to further examine this topic and will issue a report in December 2022. The workgroup and our collective bargaining process is the most appropriate way to address the number of paid parental leave days or make other changes to parental leave policy.”

SUPPORT

California Faculty Association (sponsor)
California Federation of Teachers AFL-CIO
California Labor Federation, AFL-CIO
California State University Employees Union (CSUEU)
California Teachers Association
First 5 Association of California
NARAL Pro-choice California

OPPOSITION

California State University, Office of The Chancellor

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