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THIRD READING

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Bill No: AB 615  
Author: Rodriguez (D)  
Amended: 7/7/21 in Senate  
Vote: 21

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SENATE LABOR, PUB. EMP. & RET. COMMITTEE: 4-1, 6/28/21  
AYES: Cortese, Durazo, Laird, Newman  
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/26/21  
AYES: Portantino, Bradford, Kamlager, Laird, McGuire  
NOES: Bates, Jones

ASSEMBLY FLOOR: 58-15, 5/27/21 - See last page for vote

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**SUBJECT:** Higher Education Employer-Employee Relations Act: procedures relating to employee termination or discipline

**SOURCE:** Service Employees International Union, California

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**DIGEST:** This bill requires a higher education employer to provide a procedure for medical and dental interns and residents and other related employees to challenge a termination of employment or a disciplinary action, as specified.

**ANALYSIS:**

Existing law:

- 1) Defines “Higher Education Employer” to mean any of the following:
  - a) A member of the Board of Regents of the University of California (UC).
  - b) A member of the Board of Directors of Hastings College of the Law.
  - c) An affiliate of the University of California.
  - d) A member of the Board of Trustees governing the California State University system. (Government Code (GC) §3560)

- 2) Grants higher education employees the right to form, join and participate in the activities of employee organizations for the purpose of representation in employer-employee relations and for meeting and conferring. (GC §3565)
- 3) Allows any employee or group of employees to present grievances to their employer and have such grievances adjusted. The employer must not agree to a resolution of the grievance until provided with a copy of the grievance and proposed solution. (GC §3567)
- 4) Prohibits higher education employers from engaging in any of the following practices:
  - a) Refusing or failing to engage in a meeting and conferring with a chosen exclusive representative.
  - b) Interfering with the formation or administration of any employee organization or in any way encouraging employees to join any organization in preference to another.
  - c) Refusing to participate in good faith during an impasse procedure.
  - d) Consulting with any academic, professional, or staff advisory group on any matter within the scope of representation for employees who are represented by an exclusive representative until an election has been held in which “no representative” received a majority of the votes cast.
  - e) Denying an employee organization any rights guaranteed above.
  - f) Imposing or threatening reprisals on employees for exercising any of the above rights or privileges. Employee includes an applicant for employment or reemployment.  
(GC §3571)
- 5) Prohibits an employee organization from engaging in the following practices:
  - a) Causing or attempting to cause a higher education employer to violate prohibited labor practices, as specified in 4) above.
  - b) Imposing or threatening to impose reprisals on employees or otherwise discriminating against employees for exercising their rights, as specified.
  - c) Refusing or failing to engage in meeting and conferring with the higher education employer.
  - d) Refusing to participate in good faith in an impasse procedure.
  - e) Failing to represent all the employees in the unit fairly and impartially.
  - f) Requiring the payment of a fee as a condition to becoming a member of an employee organization in an amount which the Public Employee Relations Board finds excessive or discriminatory, as specified.

- g) Causing or attempting to cause an employer to pay or deliver any money or other thing of value for services which are not performed, as specified. (GC §3571.1)
- 6) States that the expression of any views, arguments, or opinions, or the dissemination thereof, whether in written, printed, graphic, or visual form, does not constitute an unfair labor practice unless such expression contains a threat of reprisal, force, or promise of benefit, or expressly advocates for one employee organization over others. (GC §3571.3)

This bill:

- 1) Requires a higher education employer covered by the Higher Education Employer-Employee Relations Act to provide a procedure to challenge a termination of employment or a disciplinary action by the employer for the following occupations: (a) medical and dental interns and residents, (b) persons in resident physician subspecialty programs accredited by the Accreditation Council for Graduate Medical Education, and (c) other postgraduate medical and dental trainees in programs not accredited by the Accreditation Council for Graduate Medical Education.
- 2) Requires a higher education employee first exhaust any administrative or academic grievance processes that are available to that employee before proceeding with a challenge.
- 3) Provides that the employee may file a grievance of an employer's administrative or disciplinary action provided that (a) it is based on neither clinical nor academic matters, (b) is subject to appeal under that employer's procedures, and (c) authorizes the union to file the grievance following the result of the employer's formal review.
- 4) Requires an arbitration panel hear a challenge to the employer's action. The panel shall consist of a designee of the exclusive representative, a designated representative of the graduate medical education program, and an impartial hearing officer or arbitrator. The panel will have the power to review the employer's action and provide a full remedy for termination or discipline without just cause. If the employee is represented by a union, the impartial hearing officer or arbitrator must be jointly selected by the employer and the union.
- 5) States that a memorandum of understanding between a higher education employer and an exclusive representative that provides a procedure for the

employee or employee's representative to challenge a termination of employment or a disciplinary action shall control over this bill's requirements.

- 6) Provides that this bill's required procedures do not apply to termination and disciplinary actions based on academic or clinical matters.
- 7) Provides that for matters that are submitted to arbitration, an arbitrator shall not have the authority to order a higher education employer to advance an employee or trainee to the next level of training, or attest that an employee or trainee is eligible for graduation or board certification.
- 8) Defines "Academic or Clinical Matters" to mean matters that relate to whether the employee has developed the practice-based learning and improvement, patient care and procedural skills, systems-based practice related to medical judgment, and medical knowledge competencies that are necessary to function at the current level of training, advance to the next level of training, or be assessed as eligible for graduation and board certification.
- 9) Defines "Disciplinary Action" to mean restriction, suspension, nonrenewal, or termination of employment.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, the UC indicates that it would incur annual ongoing General Fund costs ranging from \$500,000 to \$1.5 million, depending on the number of disciplinary cases that go to arbitration. Additionally, this bill will result in a one-time cost in the hundreds of thousands of dollars to UC for changes to policies and procedures (General Fund).

**SUPPORT:** (Verified 8/27/21)

Service Employees International Union, California (source)  
California Chapter of the American College of Emergency Physicians  
California Faculty Association  
California Federation of Teachers AFL-CIO  
California Labor Federation, AFL-CIO  
California Professional Firefighters  
California School Employees Association  
UAW Local 2865

**OPPOSITION:** (Verified 8/27/21)

None received

**ARGUMENTS IN SUPPORT:** According to the sponsor, Service Employees International Union, California:

Many hospitals throughout California and the United States have due process review before an impartial hearing officer for their resident and intern physicians. SEIU/Committee on Interns and Residents represents medical residents and interns in 57 of these hospitals. Based on this experience we know firsthand it is neither costly nor disruptive to the ability of hospitals to ensure resident physicians will become fully licensed physicians, but in fact, it increases harmonious relations and reduces unnecessary stress among physicians.

Nationally, there were 15 discipline/termination arbitration cases impacting medical residents and interns over a 20 year period. We know these matters are infrequent but the impartial due process is available when necessary. UC already has due process before an impartial hearing officer for all other employees so they are familiar with the process and already have established procedures in place. Their long-established human resources/labor relations departments handle these matters and are very familiar with the grievance and arbitration processes.

ASSEMBLY FLOOR: 58-15, 5/27/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chiu, Cooley, Cooper, Daly, Frazier, Friedman, Gabriel, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Jones-Sawyer, Kalra, Lee, Levine, Low, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, O'Donnell, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Stone, Ting, Villapudua, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NOES: Bigelow, Chen, Choi, Cunningham, Megan Dahle, Davies, Fong, Gallagher, Kiley, Lackey, Mathis, Nguyen, Patterson, Seyarto, Voepel

NO VOTE RECORDED: Flora, Irwin, Maienschein, Smith, Valladares

Prepared by: Glenn Miles / L., P.E. & R. / (916) 651-1556  
8/28/21 11:14:08

\*\*\*\* END \*\*\*\*