

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 1098 (Fong)
Version: July 3, 2025
Hearing Date: July 15, 2025
Fiscal: Yes
Urgency: No
ME

SUBJECT

Postsecondary education: undergraduate and graduate students: pregnancy or pregnancy-related issues

DIGEST

This bill protects undergraduate and graduate postsecondary educational institution students from discrimination based on pregnancy and pregnancy-related conditions, as specified.

EXECUTIVE SUMMARY

Current California law provides protections for graduate students from discrimination for pregnancy and pregnancy related conditions. This bill strengthens these protections and also provides that undergraduate students are also entitled to these protections. The author and supporters of the bill assert that federal anti-discrimination protections for this population of students have weakened and therefore the author brings this bill to provide robust protections in state law.

AB 1098 is author sponsored and supported by the Student Senate for California Community Colleges, California State Student Association, Public Counsel's Audrey Irmas Gender Justice Project, and several organizations that support children and parents. The Committee has not received timely opposition to the bill. This bill passed out of the Senate Education Committee with a vote of 7 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Prohibits an institution of higher education that receives federal financial assistance from discriminating in its education program or activity against any student based on the student's current, potential, or past pregnancy or related conditions. (34 CFR § 106.40.)
- 2) Provides that an institution of higher education does not engage in prohibited discrimination when it allows a student, based on pregnancy or related conditions, to voluntarily participate in a separate portion of its education program or activity provided the recipient ensures that the separate portion is comparable to that offered to students who are not pregnant and do not have related conditions. (*Id.*)
- 3) Defines "pregnancy related conditions" to mean: pregnancy, childbirth, termination of pregnancy, or lactation; medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions. (34 CFR § 106.1.)
- 4) Specifies 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, including, but not limited to, pregnancy discrimination as described in Title IX, in the postsecondary educational institutions of the state. (Ed. Code § 66281.7.)
- 5) Provides that a postsecondary educational institution, including the faculty, staff, or other employees of the institution, shall not do either of the following solely due to pregnancy or pregnancy-related issues: require a graduate student to take a leave of absence or withdraw from the graduate program; or limit the student's graduate studies. (Ed. Code § 66281.7.)
- 6) Provides that 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. (Ed. Code § 66281.7.)
- 7) Reasonable accommodation within the meaning of 6), above, 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 the student to take a leave of absence. Reasonable accommodation shall include excusing absences that are medically necessary, as required under Title IX. (Ed. Code § 66281.7.)

- 8) Requires 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 state law and requires a copy of this policy to be made available to faculty, staff, and employees in their required training. Requires the policy to be made available to all graduate students attending orientation sessions at a postsecondary educational institution. (Ed. Code § 66281.7.)
- 9) Requires each public postsecondary educational institution to notify pregnant and parenting students of the protections provided by Title IX through prominently posting a notice of the Title IX protections on the institution's internet website. (Ed. Code § 66281.7.)
- 10) Requires the CCCs and CSU, by January 1, 2020, and encourages a satellite campus of these systems and the UC, to provide reasonable accommodations on their respective campuses for a lactating student to express breast milk, breast-feed an infant child, or address other needs related to breast-feeding and lists reasonable accommodations. (Ed. Code § 66271.9.)
- 11) Prohibits students from incurring an academic penalty as a result of their use of the reasonable accommodations, and requires students be provided the opportunity to make up any work missed due to such use. (Ed. Code § 66271.9.)

This bill:

- 1) Provides that all students have the right to participate fully in the educational process free from discrimination and harassment and specifies that it is the policy of the State of California that all persons shall enjoy freedom from discrimination of any kind, including, but not limited to, pregnancy discrimination.
- 2) Defines "postsecondary educational institution" as a campus of the University of California, the California State University, or the California Community Colleges, or a private postsecondary educational institution or independent institution of higher education that receives state financial assistance or state student financial aid, as specified, and provides that the requirements of the bill shall apply to the University of California.
- 3) Defines "coordinator" as the employee designated by the postsecondary educational institution, as specified, or an employee who is responsible for implementing the postsecondary educational institution's nondiscrimination policy as designated by the institution.
- 4) Requires the provisions of the bill to be implemented at each postsecondary educational institution on or before September 1, 2026 and requires the provisions of this bill to be implemented in compliance with state and federal laws.

- 5) Provides that a postsecondary educational institution shall not discriminate against a student based on the student's current, potential, or past pregnancy or pregnancy-related conditions.
- 6) Specifies that a postsecondary educational institution has not committed discrimination when it permits a student, based on pregnancy or pregnancy-related conditions, to voluntarily participate in a separate portion of an education program or activity, if the postsecondary educational institution ensures that the separate portion is comparable to the education program or activity offered to students who are not pregnant and do not have pregnancy-related conditions.
- 7) Specifies that a postsecondary educational institution, including the faculty, staff, or other employees of the institution, shall not do any of the following solely due to pregnancy or pregnancy-related issues: require an undergraduate or graduate student to take a leave of absence or withdraw from an undergraduate or graduate program; or limit the student's undergraduate or graduate studies.
- 8) Provides that a postsecondary educational institution shall require employees who are obligated to report pursuant to the institution's nondiscrimination policy, upon being directly informed by a student of the student's pregnancy or pregnancy-related conditions, to give the student the coordinator's contact information and inform the student that the coordinator, or their designee, can coordinate specific actions to prevent sex discrimination by ensuring that the student has equal access to educational programs offered by the postsecondary educational institution.
- 9) Provides that a postsecondary educational institution, through the coordinator and, if necessary, in coordination with the institution's Title IX office, shall provide reasonable accommodations to a pregnant student or a recently pregnant student to support the student's ability to complete their undergraduate or graduate courses of study and research. In determining appropriate accommodations, the coordinator, or their designee, shall consult with the student.
- 10) Specifies that reasonable accommodations may include, but are not limited to, all of the following: breaks during class to express breast milk, breast feed, or attend to health needs associated with pregnancy or pregnancy-related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; if readily available, access to online education; changes in schedule or course sequence; time extensions for coursework and rescheduling of tests and examinations; being allowed to sit or stand, or carry or keep water nearby; mental health counseling as provided by the institution to all students; changes in physical space or supplies in the educational classroom; elevator access; other accommodations for the pregnant student's health or safety; allowing the student to take a leave of absence that is not medically necessary; and other changes to the postsecondary educational institution's policies, practices, or procedures.

- 11) Specifies that an accommodation is not considered reasonable if the postsecondary educational institution determines the accommodation would fundamentally alter the nature of its education program or activity. The determination as to whether the requested accommodation would fundamentally alter the nature of the education program shall be made in consultation with relevant faculty, administrators, the postsecondary educational institution's coordinator, and, if necessary, the institution's Title IX coordinator.
- 12) Specifies that a student may voluntarily accept or reject any reasonable accommodation offered pursuant to this section.
- 13) Provides that if a student accepts a reasonable accommodation offered pursuant to this section, the institution shall implement it as soon as practicable.
- 14) Provides that a postsecondary educational institution shall offer to an undergraduate or graduate pregnant student or an undergraduate or graduate student who has recently given birth a voluntary leave of absence, as specified.
- 15) Provides that a postsecondary educational institution shall offer to an undergraduate or graduate student who is not the birth parent a voluntary leave of absence, as specified, because of the birth, adoption, or placement of the student's child.
- 16) Provides that if an undergraduate or graduate student chooses to take a voluntary leave of absence pursuant to 14) or 15), above, the student shall be informed by the postsecondary educational institution as to how the leave of absence may affect the student's financial aid and, if applicable, the student's visa status.
- 17) Provides that it is the intent of the Legislature, to the extent feasible for the postsecondary educational institution and in compliance with state and federal laws, for a postsecondary educational institution to ensure that the student's voluntary leave of absence does not disrupt the continuation of institution-based financial aid upon the student's return to the undergraduate or graduate program.
- 18) Provides that an enrolled undergraduate or graduate student in good academic standing who chooses to take a voluntary leave of absence because the student is pregnant, or has recently given birth, shall return to the their undergraduate or graduate 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 the student's standing in the undergraduate or graduate program shall be maintained during that period of absence. Upon the student's return to the undergraduate or graduate program, the student shall be reinstated, as practicable,

to the extracurricular and employment status with the postsecondary educational institution the student held before their voluntary leave of absence began.

- 19) Provides that an enrolled undergraduate or graduate student in good academic standing who is not the birth parent and who chooses to take a voluntary leave of absence because of the birth, adoption, or placement of the student's child shall return to their undergraduate or graduate 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 postsecondary educational institution. Upon the student's return to the undergraduate or graduate program, the student shall be reinstated, as practicable, to the extracurricular and employment status with the postsecondary educational institution the student held before their voluntary leave of absence began.
- 20) Provides that a postsecondary educational institution shall provide a pregnant or recently pregnant student access to a private and secure lactation room, as specified.
- 21) Specifies that a postsecondary educational institution shall not require a student to provide supporting documentation before the postsecondary educational institution provides reasonable accommodations, as provided.
- 22) Requires each postsecondary educational institution to: adopt a written policy for students on pregnancy discrimination that includes procedures for accessing reasonable accommodations under this bill and for addressing pregnancy discrimination complaints for alleged noncompliance with this bill, as specified, and requires a copy of the policy to be provided to students, faculty, staff, and employees, as specified; and post a notice of the Title IX protections and the policies established pursuant to this bill, as specified.
- 23) Provides that if any provision of the act that adds this section conflicts with federal law, that provision shall be rendered inoperative for the duration of the conflict and without affecting the whole.

COMMENTS

1. Author and supporters' stated need for the bill

According to the author:

California has long been a leader in advancing the civil rights of students in order to preserve educational equity on campus. AB 1098 would amend the California Education Code to provide parity between undergraduate and graduate students who are experiencing a pregnancy or pregnancy conditions. The Education Code provides protections for graduate students to take a leave

of absences but it does not provide the same protections to undergraduate students. Every student should be afforded equal rights and opportunities in postsecondary education institution regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, immigration status, or pregnancy/pregnancy - related condition. AB 1098 codifies this basic right and provides tangible guidance for colleges and universities for how to provide equal access under the law for pregnant students and for those who are experiencing pregnancy - related conditions.

The Student Senate for California Community Colleges writes the following in support of the bill:

One in eight undergraduates in California are student parents, and roughly 100,000 CA undergraduates are raising a child 3 or younger. Without strong policies to support them, pregnant students often face difficulty getting changes they need to stay healthy while continuing their studies, including accessing excused absences for medical appointments. Students who are growing their family while in college also struggle to get time off to recover from birth or welcome a new child into their home. In 2014, the legislature (AB 2350, Bonilla) responded to these needs by establishing parental leave and pregnancy accommodations for graduate students, but the law left out undergraduates and relied heavily on the federally-enforced law Title IX.

AB 1098 would address these gaps by ensuring students in California have state anti-discrimination protections and parental leave.

The Audrey Irmas Gender Justice Project at Public Counsel writes the following in support of the bill:

AB 1098 is an important measure that ensures undergraduates are provided the same rights and accommodations that are presently provided only to graduate students. In addition, the bill strengthens protections for both groups and requires colleges and universities to have more robust and effective means of informing students about their rights under federal and state law.

As an organization committed to advancing equality for women and gender-expansive people, we believe AB 1098 will further the Gender Justice Project's mission to support students experiencing gender-based discrimination and harassment in educational institutions. AB 1098 would ensure that all pregnant and parenting students in California have state anti-discrimination protections and parental leave, thereby strengthening families and improving health, education, and general prosperity for entire communities.

Pregnant and parenting students should be afforded every opportunity to pursue their academic goals and be protected from any bias or discrimination based on the student's pregnancy or pregnancy-related conditions. AB 1098 provides certainty for these students by prohibiting a college from requiring an undergraduate or graduate student to take a leave of absence or withdraw from an undergraduate or graduate program because of their pregnancy, or otherwise limit the student's studies, because the student is pregnant or experiencing pregnancy-related conditions.

While students may request accommodation for bonding with a newborn or adopted infant or child, women are most susceptible to unjust conditions and the lack of accommodations that may ultimately drive them to withdraw from their studies and forgo their higher education goals.

AB 1098 protects the basic rights of pregnant students and provides important guidance for colleges and universities to ensure they provide equal access under the law for pregnant students and for those who are experiencing pregnancy - related conditions.

Lastly, the measure ensures colleges and universities inform students about their rights under federal and state law, thereby increasing the likelihood that they will seek the assistance of the Title IX coordinator to pursue those rights.

2. The bill provides pregnancy related condition protections for graduate students and undergraduate students in light of the Trump Administration's clawing back of rights for this population

According to the Senate Education Committee Analysis for this bill:

The implementation and enforcement of Title IX are largely prescribed by federal regulations and a "Dear Colleague" letter. In 2013, the Obama Administration issued a "Dear colleague" letter providing additional clarity as to the types of accommodations and protections a college or university must provide to a student who is pregnant or experiencing pregnancy-like conditions. The 2013 "Dear Colleague" letter and additional guidance prohibited a college or university from separating a pregnant student into an alternative education program, prohibited a college or university from requiring medical documentation for continual participation in educational programs, and stated accommodations are required to preserve equal access for pregnant students.

In 2020, the Trump Administration finalized new Title IX regulations, which changed the manner in which postsecondary education institutions were required to address sex discrimination and sexual harassment on campus. The 2020 Title IX regulations prohibited a higher education institution from denying

admission to a student based on pregnancy or pregnancy-related conditions, and extended protections to include pregnant employees at higher education institutions.

The 2020 regulations provided protections for pregnant students and students with pregnancy-related conditions. The Biden Administration then issued a Title IX regulation to be implemented in August of 2024. The Biden regulations provided broad protections for pregnancy-related conditions. As explained by the Senate Education Committee:

For pregnant students or students with pregnancy-related condition, the 2024 regulations provided the following:

1. A requirement to notify the Title IX coordinator of a student's pregnancy or pregnancy related condition or to at least provide the student with the coordinator's contact information;
2. Specific actions each institution must undertake to prevent discrimination and to ensure equal access – this is the first iteration of required modifications to an educational program beyond medical leave.
3. Defined for institutions reasonable modifications a campus could provide a student;
4. Extended voluntary leave of absence and clarity on the reinstatement process;
5. Lactation space; and,
6. Limitations on the required supporting documentation a student must provide to receive modifications.

Because of litigation¹ the 2024 Title IX regulations ended nationwide. The U.S. Department of Education issued a “Dear Colleague” letter on February 4, 2025 specifying that Title IX would be enforced pursuant to the 2020 Title IX regulations.

In response to these lessened protections the author proposes this bill to bridge the gap and ensure that there are robust protections against discrimination for pregnancy-related conditions for undergraduate students and to update the law to provide more protections for graduate students as well.

¹ *State of Tennessee v. Cardona*, No. 2: 24-072DCR (E.D. Ky. Jan. 9, 2025) returned Title IX to 2020 regulations. The US Department of Education Office of Civil Rights issued a “Dear Colleague” letter to K-12 schools and higher education institutions confirming that “the United States Department of Education’s (ED) Office for Civil Rights (OCR) will enforce Title IX under the provisions of the 2020 Title IX Rule, rather than the 2024 Title IX Rule.” (See U.S. Dep’t of Educ., *Dear Colleague Letter: Title IX Enforcement Directive* (Jan. 31, 2025) available at <https://www.ed.gov/media/document/title-ix-enforcement-directive-dcl> [as of July 3, 2025].)

Currently, the California Equity in Higher Education Act provides protections to and accommodations for graduate students who are pregnant or have recently given birth and provides protections and accommodations for a graduate student who is not the birth parent.

AB 1098 specifies that postsecondary educational institutions may not discriminate against a student based on the student's current, potential, or past pregnancy or pregnancy-related conditions. The bill prohibits a postsecondary educational institution from requiring an undergraduate or graduate student to take a leave of absence or withdraw from an undergraduate or graduate program or limit the student's undergraduate or graduate studies. The institutions must take specified steps to make students aware of their protections and conduct outreach to ensure that students are able to be provided accommodations.

Under the bill, postsecondary educational institutions must provide reasonable accommodations to a pregnant student or a recently pregnant student to support the student's ability to complete their undergraduate or graduate courses of study and research. The bill specifies what some of the reasonable accommodations may include. The accommodations could, among other things, include: breaks during class to express breast milk, breast feed, or attend to health needs associated with pregnancy or pregnancy-related conditions, including eating, drinking, or using the restroom; intermittent absences to attend medical appointments; if readily available, access to online education; changes in schedule or course sequence; time extensions for coursework and rescheduling of tests and examinations; being allowed to sit or stand, or carry or keep water nearby; mental health counseling as provided by the institution to all students; changes in physical space or supplies in the educational classroom; elevator access; other accommodations for the pregnant student's health or safety; allowing the student to take a leave of absence that is not medically necessary; and other changes to the postsecondary educational institution's policies, practices, or procedures.

The bill also requires the institution to offer to an undergraduate or graduate pregnant student or an undergraduate or graduate student who has recently given birth a voluntary leave of absence. The bill also requires the institution to offer an undergraduate or graduate student who is not the birth parent a voluntary leave of absence because of the birth, adoption, or placement of the student's child. The postsecondary educational institution must inform the student as to how the leave of absence may affect the student's financial aid and, if applicable, the student's visa status. The bill provides that it is the intent of the Legislature, to the extent feasible for the postsecondary educational institution and in compliance with state and federal laws, for a postsecondary educational institution to ensure that the student's voluntary leave of absence does not disrupt the continuation of institution-based financial aid upon the student's return to the undergraduate or graduate program. The bill also requires that an enrolled undergraduate or graduate student in good academic standing who chooses to take a voluntary leave of absence because the student is pregnant, or

has recently given birth, or is not the birth parent but who chooses to take a voluntary leave of absence because of the birth, adoption, or placement of the student's child, shall return to the their undergraduate or graduate program in good academic standing following a leave period. Upon the student's return to the undergraduate or graduate program, the student shall be reinstated, as practicable, to the extracurricular and employment status with the postsecondary educational institution the student held before their voluntary leave of absence began.

SUPPORT

Alliance for Children's Rights
American Association of University Women
American College of Obstetricians and Gynecologists
California Faculty Association
California State Student Association
California WIC Association
California Women's Law Center
CFT-A Union of Educators & Classified Professionals, AFT, AFL-CIO
Early Edge California
EdTrust-West
Michelson Center for Public Policy
Public Counsel's Audrey Irmes Gender Justice Project
Student Senate for California Community Colleges

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 809 (Santiago, Ch. 265, Stats. 2019) required public postsecondary educational institutions to notify pregnant or parenting students of protections provided by Title IX and encouraged child development programs established by the public postsecondary educational institutions to give priority to children of students who are single parents.

AB 2350 (Bonilla, Ch. 637, Stats. 2014) prohibited postsecondary education institutions from requiring a graduate student to take a leave of absence, withdraw from a graduate program, or limit their studies due to pregnancy or pregnancy-related issues.

PRIOR VOTES:

Senate Education Committee (Ayes 7, Noes 0)

Assembly Floor (Ayes 79, Noes 0)

Assembly Appropriations Committee (Ayes 14, Noes 0)

Assembly Judiciary Committee (Ayes 12, Noes 0)

Assembly Higher Education Committee (Ayes 10, Noes 0)
