

RESOLUTION 08-01-2021

TEXT OF RESOLUTION

RESOLVED, that the Conference of California Bar Associations recommends that legislation be sponsored to add Education Code Section 66271.4, to read as follows:

1 § 6271.4.

2 (a) For purposes of this section, “public postsecondary educational institution” or
3 “institution” means a campus of the University of California, the California State University, or
4 the California Community Colleges.

5 (b) If a public postsecondary educational institution receives government-issued
6 documentation, as described in subdivision (c), from a former student demonstrating that the
7 former student’s legal name or gender has been changed, the institution shall update the former
8 student’s records to include the updated legal name or gender. If requested by the former student,
9 the institution shall reissue any documents conferred upon the former student with the former
10 student’s updated legal name or gender. Documents that shall be reissued by the institution upon
11 request include, but are not necessarily limited to, a transcript or a diploma conferred by the
12 institution.

13 (c) The documentation of a former student sufficient to demonstrate a legal name or
14 gender change includes, but is not necessarily limited to, any of the following:

15 (1) State-issued driver’s license.

16 (2) Birth certificate.

17 (3) Passport.

18 (4) Social security card.

19 (5) Court order indicating a name change or a gender change, or both.

20 (d) This section does not require the institution to modify records that the former student
21 has not requested for modification or reissuance.

22 (e) Commencing with the 2023–24 graduating class, an institution shall provide an option
23 for a graduating student to request that the diploma to be conferred by the institution list the
24 student’s chosen name. Commencing with the 2023–24 graduating class, an institution shall not
25 require a graduating student to provide legal documentation sufficient to demonstrate a legal
26 name or gender change in order to have the student’s chosen name listed on the student’s
27 diploma.

28 (f) Notwithstanding Section 67400, this section shall apply to a campus of the University
29 of California.

30 SEC. 2.

31 If the Commission on State Mandates determines that this act contains costs mandated by
32 the state, reimbursement to local agencies and school districts for those costs shall be made
33 pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government
34 Code.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Bay Area Lawyers for Individual Freedom

STATEMENT OF REASONS

The Problem (including Existing Law): California public colleges do not have a standardized process for updating records of a student’s legal name or gender changes after a student graduates. Transgender and nonbinary Californians often face discrimination, violence, and barriers to employment. These existing barriers can be exacerbated by student records that do not reflect their name and gender. If a person's name does not match the name on a transcript or diploma, that can present real challenges when applying for graduate school or employment opportunities. It can also “out” individuals who may not wish to be outed as transgender or may not feel safe in their current situation to openly identify as transgender or nonbinary. Many California colleges have taken steps to give students the opportunity to designate their affirmed name and gender in a variety of areas like student identification cards and school email accounts. However, those opportunities are not always extended to diplomas, and colleges across the state have vastly different processes for updating student records after graduation. The lack of a uniform process to leads to “Deadnaming”-referring to someone by the name they were assigned at birth instead of the name they currently use- and is a traumatic and unnecessary experience faced by far too many transgender and nonbinary Californians.

The Solution: This resolution gives students at California public colleges, especially transgender and nonbinary students, the ability to have their chosen names printed on their diplomas. This bill will ensure that diplomas do not “deadname” or call the graduate by the name they were assigned at birth rather than the name they use. This resolution will require public colleges to provide graduating students the option to have their chosen name printed on their college diploma. It will also standardize the process for updating records after a student graduates, clarifying which forms of legal identification are sufficient to update student records. In order to update records after graduation, a student would need one form of legal identification, including, but not limited to, a driver’s license, birth certificate, passport, social security card, or court order indicating a name or gender change. This resolution builds off of AB 711, authored by Assemblymember Chiu and signed into law in 2019 by Governor Newsom, which required school districts to update the diplomas and transcripts of former K-12 students, particularly for transgender and nonbinary students, to reflect their accurate names and gender markers.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule. 36T

CURRENT OR PRIOR RELATED LEGISLATION

Assembly Bill No. 245 (2021-2022 Reg. Sess.) proposed by Assemblymember Chiu

AUTHOR AND/OR PERMANENT CONTACT:

Michael Wolchansky, Law Office of Michael Wolchansky, 2370 Market Street, Suite 180, San Francisco, CA 94114; 415-640-0633; Michael@Wolchanskylaw.com

RESPONSIBLE FLOOR DELEGATE: Michael Wolchansky

RESOLUTION 08-02-2021

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Education Code Section 35292.6, to read as follows:

- 1 § 35292.6
2 (a) A public school maintaining any combination of classes from grade ~~6~~ 3 to grade 12,
3 inclusive, that meets the 40-percent pupil poverty threshold required to operate a schoolwide
4 program pursuant to Section 6314(a)(1)(A) of Title 20 of the United States Code shall stock at
5 least 50 percent of the school's restrooms with feminine hygiene products at all times.
6 (b) A public school described in subdivision (a) shall not charge for any menstrual
7 products provided to pupils, including, but not limited to, feminine hygiene products.
8 (c) For purposes of this section, "feminine hygiene products" means tampons and
9 sanitary napkins for use in connection with the menstrual cycle.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Women Lawyers of Sacramento

STATEMENT OF REASONS

The Problem (including Existing Law): Existing law requires elementary school grades 6 through 12 that meet certain requirements to provide feminine hygiene products. However, a study published by the American Academy of Pediatrics shows that approximately 10% of young girls will have their first period, or menarche, by 11 years old. William Cameron Chumlea, et al., Age at Menarche and Racial Comparisons in US Girls, 111 PEDIATRICS, 110, 110-113 (2003). Moreover, socioeconomic status has been found to play a factor in early age at menarche, making the need for access to feminine hygiene products in high poverty elementary schools even more significant. Feminine hygiene products are a necessity for the health, well-being, and full participation for those who menstruate. No person who menstruates should ever need to worry about access to tampons or sanitary pads, especially not the youngest and most vulnerable subset of our population.

The Solution: Amend Education Code section 35292.6 to require public schools teaching grade 3 and above (rather than grade 6 and above as currently provided), and which meet specific pupil poverty thresholds, to provide feminine hygiene products in at least 50 percent of the school's restrooms. The amendment will ensure that children who experience menses at a young age have access to necessary hygiene products.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

CURRENT OR PRIOR RELATED LEGISLATION

Assembly Bill No. 10 (2017-2018 Reg. Sess.).

AUTHOR AND/OR PERMANENT CONTACT:

Carmen-Nicole Cox, (916) 308-4650, carmennicolecox@gmail.com; Cecilia L. Martin, Kronick, Moskovitz, Tiedemann & Girard, 1331 Garden Highway, 2nd Floor, Sacramento, California 95833, (916) 321-4596, cmartin@kmtg.com.

RESPONSIBLE FLOOR DELEGATE: Carmen Nicole-Cox and/or Cecilia L. Martin. Contact information listed above.