



OCT 15 2017

OFFICE OF THE GOVERNOR

To the Members of the California State Senate:

I am returning Senate Bill 169 without my signature.

This bill would codify a combination of federal regulations and guidance on sexual harassment – some of which has been repealed, some of which is still in effect – as well as some language from model policies that have been developed by California universities.

This is not a simple issue. Sexual harassment and sexual violence are serious and complicated matters for colleges to resolve. On the one side are complainants who come forward to seek justice and protection; on the other side stand accused students, who, guilty or not, must be treated fairly and with the presumption of innocence until the facts speak otherwise. Then, as we know, there are victims who never come forward, and perpetrators who walk free. Justice does not come easily in this environment.

That is why in 2014 I signed into law the first affirmative consent standard in the country for colleges to adopt in their sexual assault policies, so that clear and basic parameters for responsible behavior could be established. Yes Means Yes, along with its attendant preponderance standard, is the law in California, which only the courts or a future legislature can change.

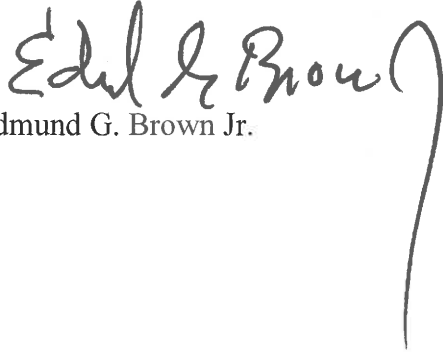
Since this law was enacted, however, thoughtful legal minds have increasingly questioned whether federal and state actions to prevent and redress sexual harassment and assault – well-intentioned as they are – have also unintentionally resulted in some colleges' failure to uphold due process for accused students. Depriving any student of higher education opportunities should not be done lightly, or out of fear of losing state or federal funding.

Given the strong state of our laws already, I am not prepared to codify additional requirements in reaction to a shifting federal landscape, when we haven't yet ascertained the full impact of what we recently enacted. We have no insight into how many formal investigations result in expulsion, what circumstances lead to expulsion, or whether there is disproportionate impact on race or ethnicity. We may need more statutory requirements than what this bill contemplates. We may need fewer. Or still yet, we may need simply to fine tune what we have.

It is time to pause and survey the land.

I strongly believe that additional reflection and investment of time in understanding what is happening on the ground will help us exercise due care in this complex arena. I intend to convene a group of knowledgeable persons who can help us chart the way forward.

Sincerely,

A handwritten signature in black ink that reads "Edmund G. Brown Jr." The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

Edmund G. Brown Jr.