

Date of Hearing: April 29, 2014

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA
Ian C. Calderon, Chair

AB 2512 (Bonilla) – As Amended: April 22, 2014

SUBJECT: Pupil rights: gender equity: after school athletic programs.

SUMMARY: Authorizes school districts and county offices of education to include compliance with Title IX in the "school climate" component of their Local Control and Accountability Plans (LCAPs) beginning in 2018, and makes a technical correction to existing law.

EXISTING STATE LAW:

- 1) Prohibits discrimination based on sex and considers exclusion from the participation in, or denial of opportunity in athletic programs as discrimination.
- 2) Requires each local education agency (LEA) to adopt a LCAP by July 1, 2014, based on a template to be adopted by the State Board of Education (SBE) by March 31, 2014.
- 3) Requires LEAs to update their LCAPs annually and renew them every three years.
- 4) Requires each LCAP to identify annual goals and the specific actions the LEA will take to achieve those goals for all pupils and each of the following pupils subgroups:
 - a) Ethnic subgroups;
 - b) Socioeconomically disadvantaged pupils;
 - c) English learners (ELs);
 - d) Pupils with disabilities; and
 - e) Foster youth

EXISTING FEDERAL LAW provides that no person in the United States shall on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Author's Statement and Support: According to the author, "AB 2512 helps to achieve one of the state's priorities: creating a positive school climate for all students. This bill redefines how student success and school climate are measured in our schools by including Title IX

compliance in the list of factors that may be considered in the LCAP. The federal Title IX law prohibits sex discrimination in all educational institutions that receive federal funding. While Title IX has increased female participation in sports, women still remain underrepresented in athletic programs and receive fewer resources.

The author notes that, "School climate is currently determined by pupil suspension and expulsion rates. By including Title IX compliance as an element of school climate, AB 2512 encourages LEAs to consider Title IX requirements as another factor to create a positive climate. Providing students with a harassment free campus and more opportunities to engage in extracurricular activities will promote greater success for all students."

The California State University Chico, Center for Nutrition and Activity write in support, saying, "High school sport participation is closely linked with student success and school climate. However girls continue to have fewer opportunities for team sport participation on high school sport teams. In the town of Chico California there are 300 more sport team opportunities for boys than there are for girls offered in the two public high schools. "A civil rights complaint was recently settled to rectify the situation; however, they state, "It should not take two years of focused effort and an OCR complaint for a school district to finally take steps to comply with a law that has been on the books since 1972."

The Women's Sports Foundation write the committee to share statistics quoted and shared by many of the bill's supporters, saying, "The playing field is far from level even 40 years after the passage of Title IX. At the national high school level, girls represent roughly 50% of the students but only 42% of student-athletes. Approximately 1.277 million more boys than girls played high school sports during the 2011-2012 school year." In California, girls lag even further behind boys in high school athletic participation, with California schools offering boys four sport opportunities for every three they offer girls, a difference of 456,663 boys in sports to 325,279 girls given the same opportunity. California is near the bottom of the nation when it comes to our athletic opportunity equity gap - 42 other states do a better job in complying with Title IX."

2) Background:

a) Title IX - Equal Opportunity in Education: Current federal law provides that, in part, "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program of activity receiving Federal financial assistance." In order to be in compliance with Federal Title IX, a school must show compliance with one of these three parts. The federal tests are:

- i) Athletic participation of women and girls is proportionate to enrollment.
- ii) The school has a history and continuing practice of program expansion for women or girls, or;
- iii) The school is fully meeting female athletes' interests and abilities in its present athletic program.

Current state law establishes standards virtually identical to those of Federal Title IX, with one modification: in Test 2, "history" is defined to mean the past two years.

Title IX applies to all aspects of educational opportunities, not just athletics.

Enforcement of compliance is initiated upon the filing of a complaint alleging a violation of Title IX. Current law does not require any reporting of measures of compliance with Title IX by K-12 schools.

- b) Committee on Arts, Entertainment Sports, Tourism and Internet Media Oversight Hearing on "California Interscholastic Federation (CIF): Continuing Title IX Concerns": On August 8, 2008, this committee held an Oversight Hearing into the CIF, and their record as governance body for California secondary school athletics. An important aspect of this hearing was exploration of the ongoing failure of girls' sports to reach parity with boys'. The Committee heard testimony which included historic concerns addressed in the seminal *California Women Coaches Academy vs. CIF* [(1980) USDC, No. 77-1270 LEW].

The CIF denied all claims, and an important settlement was reached, which provided in part, "The number of sports, contests and events available to female athletes shall be approximately the same number as are available to male athletes, levels and scheduling of competition shall be determined without regard to sex of the participating athletes and athletic facilities shall be made available without regard to the sex of the participant athlete." (Id.) In order to enforce this settlement, the SDE agreed to oversee enforcement. The committee heard testimony that this state oversight was substantially negated when the CIF took over governance of the state's interscholastic activities with the passage of SB 19 (Campbell), Chapter 1001, Statutes of 1981, which became law over the concerns of many who felt the CIF could not self-police on this issue.

In order to monitor compliance and provide oversight, the CIF was required to appear before the Legislature for Sunset Review hearings. Despite these efforts, the committee heard testimony that inequities continue to exist.

In addition to Sunset Review, AB 2295 (Oropeza), Chapter 1060, Statutes of 2002, contained uncodified language that required the CDE and the California Postsecondary Education Commission to contract jointly for a one-time report on female participation in athletics. In 2003, the RMC Research Corporation's independent report "Title IX Athletics Compliance at California's Public High Schools, Community Colleges, and Universities" revealed that of the 125 high schools that returned surveys, only 26% were in compliance with Title IX based on proportionality, defined as having participation rates that were within five percentage points of the enrollment rates for each gender. One of the recommendations of the report was to require high schools to report athletics data annually and to ensure a monitoring process for Title IX.

The CIF, for their part, stated that they strongly support both girls' and boys' sports, and have always attempted to be fair and even in their treatment. To buttress their position, in 2004-05 the CIF created a Title IX Equity Complaints and Appeal Process and established a 22 member expert group which is available to assist member schools, leagues and sections with questions regarding Title IX compliance.

- c) Local Control and Accountability Plan: To ensure accountability for LCFF funds, the state mandated that school districts, charter schools, and county offices of education adopt and update a LCAP. The LCAP must include locally determined goals, actions, services, and expenditures of LCFF funds for each school year in support of the state educational priorities that are specified in statute, as well as any additional local priorities. In adopting the LCAP, LEAs must consult with parents, students, teachers, and other school employees.

The eight state priorities that must be addressed in the LCAP, for all students and significant student subgroups in a school district and at each school, are:

- i) *Williams* settlement issues (adequacy of credentialed teachers, instructional materials, and school facilities).
- ii) Implementation of academic content standards.
- iii) Parental involvement.
- iv) Pupil achievement (in part measured by statewide assessments, Academic Performance Index, and progress of English-language learners toward English proficiency).
- v) Pupil engagement (as measured by attendance, graduation, and dropout data).
- vi) School climate (in part measured by suspension and expulsion rates).
- vii) The extent to which students have access to a broad course of study, and;
- viii) Pupil outcomes for non-state-assessed courses of study.

School district LCAPs are subject to review and approval by county offices of education. Statute established a process for districts to receive technical assistance related to their LCAPs. The Superintendent of Public Instruction (SPI) is authorized to intervene in a struggling district, under certain conditions.

3) Prior and Related Legislation:

- a) SB 1349 (Jackson), requires public schools to report specific information regarding participation in competitive athletics, beginning with the 2015-16 school year and biennially thereafter. SB 1349 is currently pending in Senate Appropriations Committee.
- b) AB 685 (Davis), of the 2009-10 Legislative Session, would have required the School Facilities Planning Division of the CDE to include, as part of its review of an application for new construction plan approval, a determination of whether the proposed project would comply with federal law prohibiting discrimination in educational programs or activities on the basis of sex. AB 685 was vetoed.

- c) AB 2323 (Jackson), of the 2003-04 Legislative Session, would have required the CDE to develop a Gender Equity Compliance Survey for high schools. AB 2323 was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Teachers
California National Organization for Women
California School Boards Association
California Women's Law Center
Center for Nutrition and Activity, CSU-Chico
Consumers Attorneys of California
Equal Rights Advocates
Mt. Diablo Unified School District
Women's Sports Foundation

Opposition

None on file

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