

Date of Hearing: June 21, 2016

ASSEMBLY COMMITTEE ON ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND
INTERNET MEDIA

Kansen Chu, Chair

SB 1375 (Jackson) – As Amended , June 20, 2016

SENATE VOTE: 39-0

SUBJECT: Educational equity: sex equity in education: federal Title IX notifications.

SUMMARY: Requires educational institutions to post information about Title IX on their websites, as specified. Specifically, **this bill:**

- 1) Requires, by July 1, 2017, public schools, private schools that receive federal funds and are subject to the requirements of Title IX, school districts, county offices of education, and charter schools to post in a prominent and conspicuous location on their websites all of the following:
 - a) the name and contact information of the Title IX coordinator, including the coordinator's phone number and email address
 - b) the rights of students and the public and the responsibilities of the school under Title IX, including, links that information on the websites of the California Department of Education (CDE) Office for Equal Opportunity and the U.S. Department of Education's Office of Civil Rights (OCR)
 - c) a description of how to file a complaint under Title IX, including:
 - i) an explanation of the statute of limitations within which a complaint must be filed after an alleged incident of discrimination has occurred, and how a complaint may be filed beyond the statute of limitations
 - ii) an explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including links to this information on the OCR website
 - iii) a link to the OCR complaint form, and the contact information for the office
- 2) Allows schools which do not maintain their own website to comply by posting the required information on their school district or county office of education website.
- 3) Declares that nothing in this act shall be construed to require schools or local educational agencies subject to establish a website if they do not already maintain one.
- 4) Requires, by April 1, 2017, and annually thereafter, the Superintendent of Public Instruction (SPI) to email a letter to all schools informing them of the requirements of the bill and of their responsibilities under Title IX.

EXISTING FEDERAL LAW:

- 1) 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." Enforcement of compliance is initiated upon the filing of a complaint alleging a violation of Title IX.
- 2) Requires each school district and county office of education, or a local public or private agency that receives funding from the state or federal government, to designate a person to serve as the Title IX compliance coordinator to enforce compliance at the local level, including coordinating any complaints of non-compliance. (Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act)

EXISTING STATE LAW:

- 1) Requires the California Department of Education (CDE) to post on its website, in both English and Spanish, and at a reading level that may be comprehended by students in high school, the information set forth in the federal regulations implementing Title IX. (Education Code § 221.6)
- 2) Establishes a list of rights which are based on the relevant provisions of Title IX, and authorizes the CDE to use this list to meet the posting requirement described above. Statutes provide that students have the right to:
 - a) Fair and equitable treatment and you shall not be discriminated against based on your sex.
 - b) Be provided with an equitable opportunity to participate in all academic extracurricular activities, including athletics.
 - c) Inquire of the athletic director of your school as to the athletic opportunities offered by the school.
 - d) Apply for athletic scholarships.
 - e) Receive equitable treatment and benefits in the provision of all of the following:
 - i) Equipment and supplies.
 - ii) Scheduling of games and practices.
 - iii) Transportation and daily allowances.
 - iv) Access to tutoring.
 - v) Coaching.

- vi) Locker rooms.
 - vii) Practice and competitive facilities.
 - viii) Medical and training facilities and services.
 - ix) Publicity.
 - f) Have access to a gender equity coordinator to answer questions regarding gender equity laws.
 - g) Contact the California Department of Education (CDE) and the California Interscholastic Federation to access information on gender equity laws.
 - h) File a confidential discrimination complaint with the United States Office of Civil rights or the CDE if you believe you have been discriminated against or if you believe you have received unequal treatment on the basis of your sex.
 - i) Pursue civil remedies if you have been discriminated against.
 - j) Be protected against retaliation if you file a discrimination complaint. (EC § 221.8)
- 3) Requires each public school that offers competitive athletics to publicly make available, beginning with the 2015-16 school year and annually thereafter, information specific to athletic participation. Schools are to use a three-prong test to determine if athletic interests of both sexes have been accommodated. These provisions are known as the Sex Equity in Education Act. (EC § 221.5 - 231.5)

Requires each educational institution in California (K-12 and postsecondary education) to have a written policy on sexual harassment, and requires schools to display the policy in a prominent location in the main administrative building or other area of the campus or school site, be provided as part of any orientation program for new students, provided to each faculty member, administrative staff and support staff, and appear in any publication of the school that sets forth the rules, regulations, procedures and standards of conduct. (EC § 231.5 and § 66281.5)

FISCAL EFFECT: According to the Senate Appropriations Committee:

- Mandate costs: One-time costs potentially in the hundreds of thousands may be incurred to the extent schools and local educational agencies claim reimbursement for costs to make the Title IX information available on their websites. (Proposition 98)
- CDE cites minimal costs to develop and send the letter as required by this bill.

COMMENTS:

- 1) *Author and supporters statement of need for legislation: 44 years after its adoption Title IX awareness and compliance remains low.* According to the author, "On January 20, 2015 the Senate Judiciary Committee held an informational hearing entitled 'Attaining Equal

Opportunity for Girls in California's Secondary Schools: How our Schools are Complying with Title IX.' During the hearing the committee heard from the United States Department of Education's Office for Civil Rights (OCR), which enforces Title IX compliance, and the California Department of Education (CDE). According to testimony provided by both the OCR and CDE, school districts are often unaware that Title IX requires them to:

- Appoint a Title IX coordinator at both the district and school level who is responsible for coordinating the school and school district's Title IX compliance, and that the coordinator should not have other responsibilities that create a conflict of interest with his or her role as coordinator.
- Adopt and publish rules and procedures on how to receive, investigate, and respond to a complaint filed under Title IX.
- Notify all students, their families, and staff of their rights under Title IX.

"This lack of awareness can be seen in common day interpretations of Title IX. Whereas many people typically correlate Title IX with gender equity in interscholastic athletics, many are unaware that Title IX forbids discrimination on the basis of sex in any federally funded education program or activity. This includes protections against gender bias, gender-based harassment, sexual harassment, and sexual violence.

"Although the CDE states on its website that 'many school districts now have a Title IX coordinator,' schools remain unaware of the consequences with being noncompliant with Title IX. This can result in the school district being held legally responsible if it becomes aware of or does not address, either through lack of response or lack of awareness of a complaint or violation of Title IX."

Legal Aid Society-Employment Law Center, Fair Play for Girls in Sports Project, sponsor of SB 1375, share the following in support, "Since we began working on Title IX matters, over a decade ago, our staff members have encountered many students and families unable to fully address gender discrimination issues, due to a lack of clarity as to how the Title IX coordinator should be reached and how complaints should be pursued. In fact, many of our *Fair Play* cases have resulted in schools adding more detailed complaint processes and coordinator contact information on their web sites and in parent/guardian handbook materials. Simply put, Title IX-related information needs to be more clearly communicated and more accessible in school communities."

The author concludes, "SB 1375 can help to bridge the gap between awareness and lack of compliance by providing a simple yet effective way of ensuring districts uphold their responsibilities under Title IX. By posting fundamental information about Title IX and how students, their parents and the public can be made aware of their rights, it can be an effective yet modest approach to helping address this lack of awareness and understanding of Title IX. Rather than pursuing legislation to require direct oversight, which could prove costly and difficult to achieve legislative success, this bill would provide a cost effective and easily attainable way for school administrators, teachers and staff to help ensure that our public schools are compliant with Title IX and are providing an equitable and gender discrimination free learning environment."

2) *Background: Title IX notifications under existing law and regulations.*

- a) *Existing posting requirements.* Current state law requires the CDE to post on its website the information set forth in the federal regulations implementing Title IX. There is no requirement in current law to post information about Title IX, or the contact information for the Title IX coordinator, on school campuses or on websites of school districts.
- b) *2015 OCR guidance supports putting Title IX information on websites.* In an April, 2015 “Dear Colleague” letter, the OCR reaffirmed schools’ obligation to make Title IX information visible in the community. It stated:

“The Title IX coordinator’s contact information must be widely distributed and should be easily found *on the recipient’s website* and in various publications...OCR encourages recipients to *create a page on the recipient’s website* that includes the name and contact information of its Title IX coordinator(s), relevant Title IX policies and grievance procedures, and other resources related to Title IX compliance and gender equity. A link to this page should be prominently displayed on the recipient’s homepage.” (emphasis added)

As noted by the Education Committee analysis, this bill’s requirement to post information on school and district websites is consistent with the recommendations in this recent federal guidance.

3) *Prior related legislation.*

- a) AB 1538 (Calderon), Chapter 43, Statutes of 2015, updated the “Athletes’ Bill of Rights” (which requires the State Department of Education to post information set forth in the federal regulations implementing Title IX on its Internet Web site), by moving its provisions to within the Sex Equity in Education Act, which declares the policy of the state that elementary and secondary school classes be conducted without regard to the sex of the pupil enrolled and incorporates federal Title IX into state law.
- b) SB 429 (Jackson), of 2015, would have required the Superintendent of Public Instruction to designate a county office of education to create an instructional video on Title IX compliance and a Title IX students’ rights video. SB 429 was held on the Senate Appropriations Committee’s suspense file.
- c) AB 2512 (Bonilla), of 2014, would have authorized, beginning January 1, 2018, school districts and county offices of education to include information relative to compliance with Title IX gender equity in the “school climate” category of local control and accountability plans. AB 2512 was vetoed by the Governor, whose message read:

I appreciate the author's concerns but believe that the recently enacted Local Control Funding Formula should not now be subjected to a series of amendments. The law envisions that local communities fashion the plans that work best for them. State intervention in this process is premature.

- d) SB 248 (Oropeza), of 2009, would have required school districts, the California Community Colleges (CCC), and the California State University (CSU) to post the list of

rights afforded to students under Title IX on school districts' websites and campuses of the CCC and CSU. SB 248 was vetoed by Governor Schwarzenegger, whose veto message read:

I have previously signed the author's bill into law that required the posting of existing Title IX requirements on school campuses and on the California Department of Education website to help promote greater student and parental awareness of athletic equity issues in California schools. This bill is largely duplicative and unnecessary, and would result in costs that are imprudent to incur at this time. Therefore, I am unable to sign this bill.

- e) AB 2240 (Oropeza), of 2004, would have required the California Department of Education to post on its website the Equity in Athletics Bill of Rights and required each school district that offered competitive or club sports to print and post posters setting forth the Equity in Athletics Bill of Rights. AB 2240 was vetoed by Governor Schwarzenegger, whose veto message read:

The Federal Title IX requirements that are intended to ban sex discrimination in school academics and athletics have provided a worthy benefit to improving equity in athletics for women and men. However, establishing an additional Equity in Athletics Bill of Rights is generally duplicative and unnecessary. Instead, the Legislature could approve a bill requiring the posting of existing Title IX requirements, on school campuses and on the California Department of Education website, to help promote greater student and parental awareness of athletic equity issues in California schools.

- f) AB 2323 (Jackson), of 2004, would have required the California Department of Education to develop a Gender Equity Compliance Survey for high schools. AB 2323 was held on the Assembly Appropriations Committee's suspense file.

REGISTERED SUPPORT / OPPOSITION:

Support

Legal Aid Society-Employment Law Center, Fair Play for Girls in Sports Project (sponsor)
American Association of University Women
California Faculty Association
Equal Rights Advocates
Equality California
San Francisco Unified School District
Santa Barbara Women's Political Committee

Opposition

There is no opposition on file.

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