

Date of Hearing: April 28, 2015

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

Ian Charles Calderon, Chair

AB 1538 (Committee on Arts, Entertainment, Sports, Tourism, and Internet Media) – As  
Introduced March 26, 2015

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

**SUMMARY:** Would move language from the article entitled “Athletes’ Bill of Rights” to the Sex Equity in Education Act, and make conforming changes, as specified.

**EXISTING 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 the State Department of Education to post on its Internet website, in both English and Spanish and at a reading level that may be comprehended by pupils in high school, the information set forth in the federal regulations implementing Title IX. This existing article also enumerates the rights available to a pupil relating to gender equity in athletics.

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." (Title IX of the Education Amendments of 1972 to the 1964 Civil Rights Act.)

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

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) *Author and supporters' statement of need for legislation: strengthens existing law by making it easier to access.*

According to the author, "One of the problems with implementation of existing gender equity laws identified in a recent Senate Judiciary Informational Hearing into implementation of Title IX entitled *Attaining Equal Opportunity for Girls in California Secondary Schools: How our schools are Complying with Title IX* is the confusing statutory framework. Currently, the Education Code has two different sections that harbor language pertaining to gender equity in education which are similar in intent and purpose, but are separated by hundreds of pages in their placement in the Education Code. To further complicate matters, there is no cross reference in either section to the other.

Article 4 of the Education Code contains the 'Sex Equity in Education Act' which states the express policy of the State of California against discrimination in educational activities including sports, on the basis of the sex of the pupil. However, that provision contains no reference to the federal law known as Title IX.

"Article 10 of the Education Code holds the 'Athletes' Bill of Rights' which includes the requirement that the Department of Education publish the information set forth in federal regulations implementing Title IX, including classroom and facilities access in addition to athletes' rights, ensuring students to "fair and equitable" treatment regardless of gender. However, this section of the Education Code contains no reference to the corollary policy and statutory scheme for gender equity contained in the California Sex Equity in Education Act."

Supporters such as Equal Rights Advocates, add, "The piece-meal structure of the existing laws creates additional steps and confusion when people try to locate language on the single issue of gender equity in education. AB 1538 solves this problem by incorporating the explicit language referencing publication of Title IX implementing regulations and the Athletes' Bill of Rights from Article 10 into the similar provisions of the Sex Equity in Education Act in Article 4 of the Education Code. By merging the two provisions, it creates one cohesive section making it more accessible for school personnel, students, and other individuals wishing to find this information. In addition, the author points out that AB 1538 was drafted in such a way that all of the case, statutory and regulatory history of each of these important sections of law will remain intact.

2) *Title IX compliance remains an unmet challenge.*

According to the White Paper prepared for the recent Senate Judiciary Title IX Compliance Informational Hearing, "Since the 1970s, both federal and state laws have sought to prevent discrimination in educational institutions that receive public monies on the basis of a person's sex. The California Legislature has acted several times in the last years to enact legislation intended to bring more awareness about Title IX to students and families." However, despite these laws, "According to the National Women's Law Center (NWLC), more than 40 years since Title IX was passed, girls' opportunities are still not at the level boys' opportunities were in 1972; schools still provide 1.3 million fewer chances for girls to play sports in high school. Moreover, girls of color, in particular, NWLC reports, play sports at far lower rates than Caucasian girls with only 64% of African-American and Hispanic girls and 53% of Asian girls playing sports in comparison to 76% of Caucasian girls. (NWLC Fact Sheet, *Title IX 40 Years and Counting*, (June 2012), p. 1.)"

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.

AB 2295 (Oropeza), Chapter 1060, Statutes of 2002, contained uncodified language that required the California Department of Education 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.

3) *Prior related legislation.*

- a) AB 499 (Kuehl), Chapter 914, Statutes of 1998, created the Sex Equity in Education Act, which consolidated and standardized the non-discrimination provisions of the Education Code into two chapters, one for K-12 and one for higher education.
- b) AB 322 (Oropeza), Chapter 386, Statutes of 2005, enacted the Athletes' Bill of Rights which enumerates the rights available to a pupil relating to gender equity in athletics. The bill requires the State Department of Education to post the rights established by federal Title IX on its website.
- c) AB 2295 (Oropeza), Chapter 1060, Statutes of 2002, discussed in Comment 2 above.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Equal Rights Advocates  
Fair Play for Girls in Sports  
The Legal Aid Society

**Opposition**

There is no opposition on file.

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