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# SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** SB 1375  
**Author:** Jackson  
**Version:** February 19, 2016  
**Urgency:** No  
**Consultant:** Lynn Lorber  
**Hearing Date:** March 30, 2016  
**Fiscal:** Yes

**Subject:** Educational equity: sex equity in education: federal Title IX notifications

## SUMMARY

This bill requires schools to post information on their websites relative to the designated Title IX coordinator, rights of students and responsibilities of schools, and a description of how to file a complaint.

## BACKGROUND

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)

- 4) 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 schoolsite, 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)

## ANALYSIS

This bill requires schools to post information on their websites relative to the designated Title IX coordinator, rights of students and responsibilities of schools, and a description of how to file a complaint. 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, 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 for that school or school district, including the Title IX coordinator's phone number and email address.
  - b) The rights of a students and the public, and the responsibilities of the school or school district under Title IX, which included but is not limited to links to websites with information about those rights and responsibilities located on the websites of the California Department of Education's Office for Equal Opportunity and the United States Department of Education Office of Civil Rights (OCR).
  - c) A description of how to file a complaint under Title IX, which must include all of the following:
    - 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 but not limited to links the information on OCR's website.
    - iii) A link to OCR's website for the complaint form, and the contact information for OCR which shall include the phone number and email address for OCR.

- 2) Requires, by April 1, 2017, and annually thereafter, the Superintendent of Public Instruction to send a letter through electronic means to all public schools, private schools that receive federal funds and are subject to the requirements of Title IX, school districts, and charter schools informing them of the requirements of this bill and of their responsibilities under Title IX.
- 3) Requires the existing annual notification to parents to include information relative to the Title IX coordinator, rights and responsibilities, and how to file a Title IX complaint (all the information described in #1).
- 4) States legislative findings and declarations relative to the lack of awareness about Title IX, and a lack of training on monitoring and ensuring compliance.

### STAFF COMMENTS

- 1) ***Need for the bill.*** 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 of 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:
  - a) 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.
  - b) Adopt and publish rules and procedures on how to receive, investigate, and respond to a complaint filed under Title IX.
  - c) Notify all students, their families, and staff of their rights 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.”

- 2) ***Existing requirements to post Title IX information.*** Existing law requires the CDE to post on its website the information set forth in the federal regulations implementing Title IX. There is no requirement to post information about Title IX, or the contact information for the Title IX coordinator, on school campuses (despite a 2009 veto message claiming otherwise) or on websites of school districts. This bill requires public schools, private schools that receive federal funds and are subject to the requirements of Title IX, school districts, and charter schools to post specific information relative to Title IX rights and coordinators on their websites. This bill does *not* require Title IX information to be posted on

school campuses. **Staff recommends an amendment** to require county offices of education to meet the requirements of this bill.

- 3) ***Rights of students and responsibilities of schools.*** This bill requires the posted information to include the rights of students and the public, and the responsibilities of the school or school district under Title IX, including links to websites with information about those rights and responsibilities located on the websites of the California Department of Education's Office for Equal Opportunity and the United States Department of Education Office of Civil Rights. This bill does not specify the specific links; a search of *Title IX* within those websites revealed by following:

- a) California Department of Education:  
<http://www.cde.ca.gov/re/di/eo/genequitytitleix.asp>
- b) Office of Civil Rights:  
[http://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

**Staff recommends an amendment** to require the information to also include the list of rights delineated in Education Code section 221.8, which are described in the Background section of this analysis.

- 4) ***Prior legislation.*** SB 248 (Oropeza, 2009) 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.***

AB 2240 (Oropeza, 2004) 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.***

SB 429 (Jackson, 2015) 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.

AB 2323 (Jackson, 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.

AB 2512 (Bonilla, 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.***

## **SUPPORT**

American Association of University Women of California  
American Civil Liberties Union  
Equality California  
Fair Play for Girls in Sports  
San Francisco Unified School District

## **OPPOSITION**

None received.