



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority
serving school and
college districts
throughout the state.*

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LEGAL UPDATE

October 20, 2016

To: Superintendents, Member School Districts (K-12)

From: Mia N. Robertshaw *MNR*
Assistant General Counsel

Subject: Senate Bill 1375 / Title IX Notifications
Memo No. 37-2016

The Governor has signed California Senate Bill (“SB”) 1375, attached, which adds section 221.61 to the Education Code, imposing new requirements on all public schools, county offices of education, charter schools, and private schools which are subject to Title IX requirements (herein, “education entities”). New section 221.61 requires these education entities to post information relating to Title IX on their websites in a “prominent and conspicuous location” no later than July 1, 2017. Education entities that do not have websites are not required to establish websites for this section, but if they do not have websites then the required information must be posted on the district website or the county office of education website.

Posted information must include:

1. The name and contact information of the Title IX Coordinator, including the Title IX Coordinator’s telephone number and email address.
2. The rights of the pupil and responsibilities of the education entity under Title IX, including the list of rights in Education Code section 221.8 as well as links to relevant websites of the U.S. Department of Education Office for Civil Rights and the California Department of Education’s Office for Equal Opportunity.
3. A description of how to file a Title IX complaint, including:

“(A) 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.



- (B) An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including, but not limited to, Internet Web links to this information on the United States Department of Education Office for Civil Rights' Internet Web site.
- (C) An Internet Web link to the United States Department of Education Office for Civil Rights complaints form, and the contact information for the office, which shall include the phone number and email address for the office.”¹

If a district's schools have their own websites, this information must be posted on the school website in addition to the district website. The district website should specify that the Title IX information provided on the district website applies to every school site (if this is true). If a school site has its own Title IX Coordinator, the school Title IX Coordinator and the district lead Title IX Coordinator should both be listed on both the school and district websites.

Finally, SB 1375 provides that if the Commission on State Mandates determines that SB 1375 imposes state-mandated costs, these costs may be reimbursed to local agencies and school districts pursuant to Government Code section 17500 *et seq.*

All education entities should add the required information to their websites promptly and no later than July 1, 2017. Every education entity should ensure that it has a designated Title IX Coordinator who is trained and has proper authority to oversee the entity's efforts to comply with Title IX. School & College Legal Services is offering a Title IX Coordinator 101 workshop on April 21, 2017 at the Sonoma County Office of Education. Please visit www.sclscal.org/workshops for more information and to register.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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¹ Education Code section 221.61.

Senate Bill No. 1375

CHAPTER 655

An act to add Section 221.61 to the Education Code, relating to educational equity.

[Approved by Governor September 26, 2016. Filed with
Secretary of State September 26, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1375, Jackson. Educational equity: sex equity in education: federal Title IX notifications.

Existing law, the Sex Equity in Education Act, states the policy of the state that elementary and secondary school classes and courses, including nonacademic and elective classes and courses, be conducted without regard to the sex of the pupil enrolled in these classes or courses. Existing federal law, known as Title IX, prohibits a person, on the basis of sex, from being excluded from participation in, being denied the benefits of, or being subject to discrimination under, any education program or activity receiving federal financial assistance.

This bill would require, on or before July 1, 2017, all 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 Internet Web sites specified information relating to Title IX. The bill would require the Superintendent of Public Instruction to annually 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, county offices of education, and charter schools informing them of the new requirement that would be created by this bill and of their responsibilities under Title IX. Because the bill would impose additional duties on public schools, school districts, county offices of education, and charter schools, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The goal of Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.) is to provide greater levels of gender equity in schools. The results have been higher enrollment in colleges and universities, increased numbers of graduate degrees in science and mathematics, increased participation in athletics, and fairer treatment in cases of sexual and gender harassment. These benefits not only lead to higher self-esteem and enhanced leadership skills, but also to higher rates of graduation and greater levels of career success. Title IX was approved in 1972, yet noncompliance with its requirements is still problematic.

(b) Title IX addresses 10 key areas: Access to Higher Education, Athletics, Career Education, Education for Pregnant and Parenting Students, Employment, Learning Environment, Mathematics and Science, Sexual Harassment, Standardized Testing, and Technology.

(c) 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 Office for Civil Rights and the State Department of Education.

(d) As demonstrated by testimony provided during the informational hearing, school districts are often unaware that Title IX requires them to do the following:

(1) Appoint a Title IX coordinator at both the district and school levels who is responsible for coordinating the school and school district’s Title IX compliance. The coordinator should not have other responsibilities that create a conflict of interest with his or her role as coordinator.

(2) Adopt and publish rules and procedures on how to receive, investigate, and respond to a complaint filed under Title IX.

(3) Notify all pupils, parents and guardians of pupils, and school staff of their rights under Title IX.

(e) A 2015 American Civil Liberties Union (ACLU) of California report found widespread unawareness among pupils and school administrators of the rights of pregnant and parenting pupils, including an extremely limited knowledge that pregnant pupils and those recovering from childbirth and related medical conditions are entitled to services available to other pupils with temporary medical conditions.

(f) The ACLU report found that only 4 percent of school districts surveyed included “parenting” status within the list of categories in the nondiscrimination board policy, 25 percent of pupil survey respondents indicated that they had been restricted from participating in an extracurricular activity, such as physical education or a sport, due to their pregnancy status, and 13 percent of pupil survey respondents said that they were required by their school district to move to an alternative or continuation school as a result of their pregnancy despite the law requiring that enrollment in separate programs for parenting pupils be strictly voluntary.

(g) Since Title IX was passed 44 years ago, it has been the subject of over 20 proposed amendments, reviews, Supreme Court cases, and other

political actions. It is a living, breathing law that benefits countless women and girls. The lack of knowledge of and training on Title IX harms pupils.

SEC. 2. Section 221.61 is added to the Education Code, immediately following Section 221.6, to read:

221.61. (a) On or before 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 shall post in a prominent and conspicuous location on their Internet Web sites all of the following:

(1) The name and contact information of the Title IX coordinator for that public school, private school, school district, county office of education, or charter school, which shall include the Title IX coordinator's phone number and email address.

(2) The rights of a pupil and the public and the responsibilities of the public school, private school, school district, county office of education, or charter school under Title IX, which shall include, but shall not be limited to, Internet Web links to information about those rights and responsibilities located on the Internet Web sites of the department's Office for Equal Opportunity and the United States Department of Education Office of Civil Rights, and the list of rights specified in Section 221.8.

(3) A description of how to file a complaint under Title IX, which shall include all of the following:

(A) 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.

(B) An explanation of how the complaint will be investigated and how the complainant may further pursue the complaint, including, but not limited to, Internet Web links to this information on the United States Department of Education Office for Civil Rights' Internet Web site.

(C) An Internet Web link to the United States Department of Education Office for Civil Rights complaints form, and the contact information for the office, which shall include the phone number and email address for the office.

(b) On or before April 1, 2017, and annually thereafter, the Superintendent shall 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, county offices of education, and charter schools informing them of the requirement specified in subdivision (a) and of their responsibilities under Title IX.

(c) A public school that does not maintain an Internet Web site may comply with subdivision (a) by posting the information specified in paragraphs (1) to (3), inclusive, of subdivision (a) on the Internet Web site of its school district or county office of education.

(d) Nothing in this section shall be construed to require a school or local educational agency to establish an Internet Web site if the school or local educational agency does not already maintain one.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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