

AMENDED IN SENATE MARCH 28, 2001

**SENATE BILL**

**No. 225**

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**Introduced by Senator Kuehl**

February 14, 2001

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An act to amend Sections 33353, 33354, and 35179 of, and to add Section 231.6 to, the Education Code, relating to educational programs and activities.

LEGISLATIVE COUNSEL'S DIGEST

SB 225, as amended, Kuehl. Education: interscholastic athletics: discrimination.

(1) Existing law prohibits discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, mental or physical disability, or any basis contained in the prohibition of hate crimes, as set forth in specified provisions of law, in any activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid. Under existing law, each educational institution is required to have a written policy on sexual harassment, to be provided as specified.

This bill would require each educational institution, *except as specified*, to have a written policy on discrimination as prohibited on all of those bases, to be provided in the same manner as the policy on sexual harassment. By imposing new duties on school districts regarding this policy, the bill would impose a state-mandated local program.

(2) Existing law, until January 1, 2002, describes the California Interscholastic Federation (CIF) as a voluntary organization consisting of school and school-related personnel with the responsibility for administering interscholastic athletic activities in secondary schools

and sets forth legislative intent that the CIF, in consultation with the State Department of Education, implement certain policies. Existing law prohibits a voluntary interscholastic athletic association, of which any public school is a member, from discriminating against, or denying the benefits of any program to, any person on the basis of race, sex, or ethnic origin. Existing law requires the CIF to report to the Legislature on its evaluation and accountability activities undertaken pursuant to those activities on or before January 1, 2002.

This bill would broaden that prohibition against discrimination to include, among others, discrimination on the basis of religion, mental or physical disability, and any basis contained in the prohibition of hate crimes *and would prescribe related matters*. The bill would also require the CIF to provide information to parents and pupils regarding the resolution of discrimination complaints in interscholastic athletics.

(3) Under existing law, the State Department of Education has certain authority over interscholastic activities including that if the department states that a school district, an association, or consortium of school districts, or the California Interscholastic Federation is not in compliance with state or federal law, the department may require the school district, association, or consortium, or the federation to adjust its policy so that it is in compliance. Under existing law, the department is prohibited from determining the specific policy that a school district, association, or consortium, or the federation must adopt in order to comply with state and federal laws.

This bill would, notwithstanding any other provision of law, allow a complainant who wishes to file a *discrimination* complaint based on interscholastic activities conducted by an association, *by a consortium of school districts*, or by the California Interscholastic Federation to file that *discrimination* complaint directly with the department without having to first file a *discrimination* complaint with a school district, and would authorize the department, if it states that an association, *a consortium of school districts*, or the California Interscholastic Federation is not in compliance with state or federal law, to prescribe the specific action that such an association, *consortium of school districts*, or the California Interscholastic Federation must take in order to comply with state or federal law.

The bill would extend those provisions pertaining to the CIF until January 1, 2007, and would instead require that report to be made to the Governor and the Legislature on or before January 1, 2007.



(4) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 231.6 is added to the Education Code,  
2 to read:

3 231.6. Each educational institution shall have a written policy  
4 on discrimination, as prohibited by this chapter. This policy shall  
5 be made available in the same manner as the policy on sexual  
6 harassment provided pursuant to Section 231.5.

7 *This section shall not apply to an educational institution that is,*  
8 *pursuant to Section 220.5, exempt from Article 3 (commencing*  
9 *with Section 220).*

10 SEC. 2. Section 33353 of the Education Code is amended to  
11 read:

12 33353. (a) The California Interscholastic Federation is a  
13 voluntary organization consisting of school and school related  
14 personnel with responsibility for administering interscholastic  
15 athletic activities in secondary schools. It is the intent of the  
16 Legislature that the California Interscholastic Federation, in  
17 consultation with the State Department of Education, implement  
18 the following policies:

19 (1) Give the governing boards of school districts specific  
20 authority to select their athletic league representatives.

21 (2) Require that all league, section, and state meetings  
22 affiliated with the California Interscholastic Federation be subject  
23 to the notice and hearing requirements of the Ralph M. Brown Act



1 (Chapter 9 (commencing with Section 54950) of Division 2 of  
2 Title 5 of the Government Code).

3 (3) Establish a neutral final appeals body to hear complaints  
4 related to interscholastic athletic policies.

5 (4) Provide information to parents and pupils regarding the  
6 resolution of discrimination complaints arising out of  
7 interscholastic athletic activities.

8 (b) The California Interscholastic Federation shall report to the  
9 Legislature and the Governor on its evaluation and accountability  
10 activities undertaken pursuant to this section on or before January  
11 1, 2005.

12 (c) This section shall remain in effect only until January 1,  
13 2007, and as of that date is repealed, unless a later enacted statute,  
14 that is enacted before January 1, 2007, deletes or extends that date.

15 SEC. 3. Section 33354 of the Education Code is amended to  
16 read:

17 33354. (a) The State Department of Education shall have the  
18 following authority over interscholastic athletics:

19 (1) The department may state that the policies of school  
20 districts, of associations or consortia of school districts, and of the  
21 California Interscholastic Federation, concerning interscholastic  
22 athletics, are in compliance with both state and federal law.

23 (2) (A) If the department states that a school district, an  
24 association, or consortium of school districts, or the California  
25 Interscholastic Federation is not in compliance with state or  
26 federal law, the department may require the school district,  
27 association, or consortium, or the federation to adjust its policy so  
28 that it is in compliance. However, the department shall not have  
29 authority to determine the specific policy that a school district,  
30 must adopt in order to comply with state and federal laws.

31 (B) Notwithstanding any other provision of law, a complainant  
32 who wishes to file a *discrimination* complaint based on  
33 interscholastic activities conducted by an association, *a*  
34 *consortium of school districts*, or by the California Interscholastic  
35 Federation, shall not be required to first file a *discrimination*  
36 complaint with a school district, and may file an initial  
37 *discrimination* complaint directly with the department, and the  
38 department shall have the authority to specify, with regard to a  
39 specific *discrimination* complaint, the specific action that such an  
40 association, *a consortium of school districts*, or the California



1 Interscholastic Federation must take in order to comply with state  
2 or federal law.

3 (3) If the department states that a school district, association, or  
4 consortium, or the federation is not in compliance with state or  
5 federal law in matters relating to interscholastic activities, and the  
6 school district, association, or consortium, or the federation does  
7 not change its policy in order to comply with these laws, the  
8 department may commence with appropriate legal proceedings  
9 against the California Interscholastic Federation, the school  
10 district or against school districts that are members of the  
11 California Interscholastic Federation or the association or  
12 consortium that the department states is in noncompliance. In a  
13 legal proceeding the court shall determine the matter de novo. The  
14 department may make recommendations for appropriate remedies  
15 in these proceedings.

16 (b) This section shall not be construed or interpreted to limit the  
17 discretion of local governing boards, or voluntary associations  
18 formed or maintained pursuant to subdivision (b) of Section  
19 35179, in any policy, program, or activity that is in compliance  
20 with state and federal law.

21 (c) The state law with which the policies of school districts,  
22 associations, or consortia of school districts, and of the California  
23 Interscholastic Federation, concerning interscholastic athletics,  
24 are required to comply, in accordance with this section, includes,  
25 but is not limited to, any regulations issued by the State Board of  
26 Education pursuant to Section 232 with regard to sex  
27 discrimination in interscholastic athletics.

28 (d) This section shall remain in effect only until January 1,  
29 2007, and as of that date is repealed, unless a later enacted statute,  
30 that is enacted before January 1, 2007, deletes or extends that date.

31 SEC. 4. Section 35179 of the Education Code is amended to  
32 read:

33 35179. (a) Each school district governing board shall have  
34 general control of, and be responsible for, all aspects of the  
35 interscholastic athletic policies, programs, and activities in its  
36 district, including, but not limited to, eligibility, season of sport,  
37 number of sports, personnel, and sports facilities. In addition, the  
38 board shall assure that all interscholastic policies, programs, and  
39 activities in its district are in compliance with state and federal law.



1 (b) Governing boards may enter into associations or consortia  
2 with other boards for the purpose of governing regional or  
3 statewide interscholastic athletic programs by permitting the  
4 public schools under their jurisdictions to enter into a voluntary  
5 association with other schools for the purpose of enacting and  
6 enforcing rules relating to eligibility for, and participation in,  
7 interscholastic athletic programs among and between schools.

8 (c) Each governing board, or its designee, shall represent the  
9 individual schools located within its jurisdiction in any voluntary  
10 association of schools formed or maintained pursuant to this  
11 section.

12 (d) No voluntary interscholastic athletic association, of which  
13 any public school is a member, shall discriminate against, or deny  
14 the benefits of any program to, any person on any basis prohibited  
15 by Chapter 2 (commencing with Section 200) of Part 1.

16 (e) *No voluntary interscholastic athletic association of which  
17 a public school is a member may exclude an educational institution  
18 that is, pursuant to Section 220.5, exempt from Article 3  
19 (commencing with Section 200) of Chapter 2 of Part 1, from  
20 participating in interscholastic athletic activities conducted by  
21 that association.*

22 (f) Interscholastic athletics is defined as those policies,  
23 programs, and activities that are formulated or executed in  
24 conjunction with, or in contemplation of, athletic contests between  
25 two or more schools, either public or private.

26 ~~(f)~~

27 (g) This section shall remain in effect only until January 1,  
28 2007, and as of that date is repealed, unless a later enacted statute,  
29 that is enacted before January 1, 2007, deletes or extends that date.

30 SEC. 5. Notwithstanding Section 17610 of the Government  
31 Code, if the Commission on State Mandates determines that this  
32 act contains costs mandated by the state, reimbursement to local  
33 agencies and school districts for those costs shall be made pursuant  
34 to Part 7 (commencing with Section 17500) of Division 4 of Title  
35 2 of the Government Code. If the statewide cost of the claim for  
36 reimbursement does not exceed one million dollars (\$1,000,000),  
37 reimbursement shall be made from the State Mandates Claims  
38 Fund.

