

AMENDED IN SENATE APRIL 18, 2001

AMENDED IN SENATE MARCH 28, 2001

SENATE BILL

No. 225

**Introduced by Senator Kuehl
@@@ (Coauthor: Senator Romero)**

February 14, 2001

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 state and federal remedies for~~ discrimination complaints in interscholastic athletics.

~~(3)~~

(2) 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 and 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~~ *administrative remedies* that such an association,



consortium of school districts, or the California Interscholastic Federation must ~~take~~ *provide* 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~~ *no*.

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.—~~

11 ~~SECTION 1.~~ Section 33353 of the Education Code is
12 amended to read:

13 33353. (a) The California Interscholastic Federation is a
14 voluntary organization consisting of school and school related
15 personnel with responsibility for administering interscholastic
16 athletic activities in secondary schools. It is the intent of the
17 Legislature that the California Interscholastic Federation, in

1 consultation with the State Department of Education, implement
2 the following policies:

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

5 (2) Require that all league, section, and state meetings
6 affiliated with the California Interscholastic Federation be subject
7 to the notice and hearing requirements of the Ralph M. Brown Act
8 (Chapter 9 (commencing with Section 54950) of Division 2 of
9 Title 5 of the Government Code).

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

12 (4) Provide information to parents and pupils regarding the
13 ~~resolution of state and federal remedies for~~ discrimination
14 complaints arising out of interscholastic athletic activities.

15 (b) The California Interscholastic Federation shall report to the
16 Legislature and the Governor on its evaluation and accountability
17 activities undertaken pursuant to this section on or before January
18 1, 2005.

19 (c) This section shall remain in effect only until January 1,
20 2007, and as of that date is repealed, unless a later enacted statute,
21 that is enacted before January 1, 2007, deletes or extends that date.

22 ~~SEC. 3.—~~

23 *SEC. 2.* Section 33354 of the Education Code is amended to
24 read:

25 33354. (a) The State Department of Education shall have the
26 following authority over interscholastic athletics:

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

31 (2) (A) If the department states that a school district, an
32 association, or consortium of school districts, or the California
33 Interscholastic Federation is not in compliance with state or
34 federal law, the department may require the school district,
35 association, or consortium, or the federation to adjust its policy so
36 that it is in compliance. However, the department shall not have
37 authority to determine the specific policy that a school district,
38 must adopt in order to comply with state and federal laws.

39 (B) Notwithstanding any other provision of law, a complainant
40 who wishes to file a discrimination complaint *pursuant to the*

regulations adopted for the purpose of implementing Section 261
 based on interscholastic activities conducted by an association, a
 consortium of school districts, or by the California Interscholastic
 Federation, shall not be required to first file a discrimination
 complaint with a school district, and may file an initial
 discrimination complaint directly with the department, and the
 department shall have the authority to specify, with regard to a
 specific discrimination complaint, the ~~specific action~~
administrative remedies that such an association, a consortium of
 school districts, or the California Interscholastic Federation must
~~take~~ *provide* in order to comply with state or federal law.

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

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

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

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

~~SEC. 4.—~~

1 SEC. 3. Section 35179 of the Education Code is amended to
2 read:

3 35179. (a) Each school district governing board shall have
4 general control of, and be responsible for, all aspects of the
5 interscholastic athletic policies, programs, and activities in its
6 district, including, but not limited to, eligibility, season of sport,
7 number of sports, personnel, and sports facilities. In addition, the
8 board shall assure that all interscholastic policies, programs, and
9 activities in its district are in compliance with state and federal law.

10 (b) Governing boards may enter into associations or consortia
11 with other boards for the purpose of governing regional or
12 statewide interscholastic athletic programs by permitting the
13 public schools under their jurisdictions to enter into a voluntary
14 association with other schools for the purpose of enacting and
15 enforcing rules relating to eligibility for, and participation in,
16 interscholastic athletic programs among and between schools.

17 (c) Each governing board, or its designee, shall represent the
18 individual schools located within its jurisdiction in any voluntary
19 association of schools formed or maintained pursuant to this
20 section.

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

25 ~~(e) No voluntary interscholastic athletic association of which a~~
26 ~~public school is a member may exclude an educational institution~~
27 ~~that is, pursuant to Section 220.5, exempt from Article 3~~
28 ~~(commencing with Section 200) of Chapter 2 of Part 1, from~~
29 ~~participating in interscholastic athletic activities conducted by that~~
30 ~~association.~~

31 *(e) Notwithstanding any other provision of law, no voluntary*
32 *interscholastic athletic association shall deny a school from*
33 *participating in interscholastic athletic activities because of the*
34 *religious tenets of the school, regardless of whether that school is*
35 *directly controlled by a religious organization.*

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

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

~~SEC. 5. Notwithstanding Section 17610 of the Government Code, 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. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.~~

