

**Introduced by Senator Kuehl**February 23, 2007

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An act to amend Sections 200, 220, 235, 260, 51500, 51501, 60044, 66250, 66251, and 66270 of, to amend and renumber Sections 210.1 and 220.5, to add Sections 210.1, 210.7, 212.1, 212.3, 212.6, 219, 66260.5, 66260.7, 66261.5, 66261.7, 66262.7, and 66269 to, and to repeal and add Sections 212 and 66262 of, the Education Code, relating to education.

## LEGISLATIVE COUNSEL'S DIGEST

SB 777, as introduced, Kuehl. Discrimination.

Existing law states that it is the policy of the state to afford equal rights and opportunities to all persons in the public or private elementary and secondary schools and postsecondary educational institutions of the state regardless of their sex, ethnic group identification, race, national origin, religion, or mental or physical disability and prohibits a person from being subjected to discrimination on those bases.

Existing law prohibits a teacher from giving instruction, and a school district from sponsoring any activity, that reflects adversely upon persons because of their race, sex, color, creed, handicap, national origin, or ancestry.

Existing law prohibits the State Board of Education and the governing board of a school district from adopting for use in the public schools any instructional materials that reflect adversely upon persons because of their race, sex, color, creed, handicap, national origin, or ancestry.

This bill would revise the list of prohibited bases of discrimination and the kinds of prohibited instruction, activities, and instructional materials and instead, would refer to disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic

contained in the definition of hate crimes that is contained in the Penal Code. The bill would define disability, gender, nationality, race or ethnicity, religion, and sexual orientation for this purpose.

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

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

1 SECTION 1. Section 200 of the Education Code is amended  
2 to read:

3 200. It is the policy of the State of California to afford all  
4 persons in public schools, regardless of their ~~sex, ethnic group~~  
5 ~~identification, race, national origin, religion, mental or physical~~  
6 ~~disability, or regardless of any actual or perceived~~ *disability,*  
7 *gender, nationality, race or ethnicity, religion, sexual orientation,*  
8 *or any other* characteristic that is contained in the definition of  
9 hate crimes set forth in Section 422.55 of the Penal Code, equal  
10 rights and opportunities in the educational institutions of the state.  
11 The purpose of this chapter is to prohibit acts which are contrary  
12 to that policy and to provide remedies therefor.

13 SEC. 2. Section 210.1 is added to the Education Code, to read:

14 210.1. "Disability" includes mental and physical disability.

15 SEC. 3. Section 210.1 of the Education Code is amended and  
16 renumbered to read:

17 ~~210.1.~~

18 210.3. "Educational institution" means a public or private  
19 preschool, elementary, or secondary school or institution; the  
20 governing board of a school district; or any combination of school  
21 districts or counties recognized as the administrative agency for  
22 public elementary or secondary schools.

23 SEC. 4. Section 210.7 is added to the Education Code, to read:

24 210.7. "Gender" means sex, and includes a person's gender  
25 identity and gender related appearance and behavior whether or  
26 not stereotypically associated with the person's assigned sex at  
27 birth.

28 SEC. 5. Section 212 of the Education Code is repealed.

29 ~~212. "Sex" means the biological condition or quality of being~~  
30 ~~a male or female human being.~~

31 SEC. 6. Section 212 is added to the Education Code, to read:

1 212. “Nationality” includes citizenship, country of origin, and  
2 national origin.

3 SEC. 7. Section 212.1 is added to the Education Code, to read:

4 212.1. “Race or ethnicity” includes ancestry, color, and ethnic  
5 background.

6 SEC. 8. Section 212.3 is added to the Education Code, to read:

7 212.3. “Religion” includes all aspects of religious belief,  
8 observance, and practice and includes agnosticism and atheism.

9 SEC. 9. Section 212.6 is added to the Education Code, to read:

10 212.6. “Sexual orientation” means heterosexuality,  
11 homosexuality, or bisexuality.

12 SEC. 10. Section 219 is added to the Education Code, to read:

13 219. Disability, gender, nationality, race or ethnicity, religion,  
14 sexual orientation, or any other characteristic contained in the  
15 definition of hate crimes set forth in Section 422.55 of the Penal  
16 Code includes a perception that the person has any of those  
17 characteristics or that the person is associated with a person who  
18 has, or is perceived to have, any of those characteristics.

19 SEC. 11. Section 220 of the Education Code is amended to  
20 read:

21 220. No person shall be subjected to discrimination on the basis  
22 of ~~sex, ethnic group identification, race, national origin, religion,~~  
23 ~~color, mental or physical disability, or any actual or perceived~~  
24 ~~disability, gender, nationality, race or ethnicity, religion, sexual~~  
25 ~~orientation, or any other~~ characteristic that is contained in the  
26 definition of hate crimes set forth in Section 422.55 of the Penal  
27 Code in any program or activity conducted by an educational  
28 institution that receives, or benefits from, state financial assistance  
29 or enrolls pupils who receive state student financial aid.

30 SEC. 12. Section 220.5 of the Education Code is amended and  
31 renumbered to read:

32 ~~220.5:~~

33 221. This article shall not apply to an educational institution  
34 ~~which~~ *that* is controlled by a religious organization if the  
35 application would not be consistent with the religious tenets of  
36 that organization.

37 SEC. 13. Section 235 of the Education Code is amended to  
38 read:

39 235. There shall be no ~~racial, sex, or ethnic~~ discrimination *on*  
40 *the basis of the characteristics listed in Section 220* in any aspect

1 of the operation of alternative schools, ~~charter schools, or the~~  
2 ~~Demonstration Scholarship Program~~ *or charter schools.*

3 SEC. 14. Section 260 of the Education Code is amended to  
4 read:

5 260. The governing board of a school district shall have the  
6 primary responsibility for ensuring that school district programs  
7 and activities are free from discrimination based on ~~ethnic group~~  
8 ~~identification, religion, age, sex, color, or physical or mental~~  
9 ~~disability,~~ *the characteristics listed in Section 220* and for  
10 monitoring compliance with any and all rules and regulations  
11 promulgated pursuant to Section 11138 of the Government Code.

12 SEC. 15. Section 51500 of the Education Code is amended to  
13 read:

14 51500. No teacher shall give instruction nor shall a school  
15 district sponsor any activity ~~which~~ *that* reflects adversely upon  
16 persons because of ~~their race, sex, color, creed, handicap, national~~  
17 ~~origin, or ancestry~~ *a characteristic listed in Section 220.*

18 SEC. 16. Section 51501 of the Education Code is amended to  
19 read:

20 51501. No textbook, or other instructional materials shall be  
21 adopted by the ~~state board~~ *State Board* or by any governing board  
22 for use in the public schools ~~which~~ *that* contains any matter  
23 reflecting adversely upon persons because of ~~their race, sex, color,~~  
24 ~~creed, handicap, national origin, or ancestry~~ *a characteristic listed*  
25 *in Section 220.*

26 SEC. 17. Section 60044 of the Education Code is amended to  
27 read:

28 60044. No instructional materials shall be adopted by any  
29 governing board for use in the schools ~~which~~ *that*, in its  
30 determination, contains:

31 (a) Any matter reflecting adversely upon persons because of  
32 ~~their race, color, creed, national origin, ancestry, sex, handicap,~~  
33 ~~or occupation~~ *a characteristic listed in Section 220.*

34 (b) Any sectarian or denominational doctrine or propaganda  
35 contrary to law.

36 SEC. 18. Section 66250 of the Education Code is amended to  
37 read:

38 66250. This chapter shall be known, and may be cited, as the  
39 *Sex Equity in Higher Education Act.*

1 SEC. 19. Section 66251 of the Education Code is amended to  
2 read:

3 66251. It is the policy of the State of California to afford all  
4 persons, regardless of ~~their sex, ethnic group identification, race,~~  
5 ~~national origin, religion, mental or physical disability, or regardless~~  
6 ~~of disability, gender, nationality, race or ethnicity, religion, sexual~~  
7 ~~orientation, or any other~~ any basis that is contained in the  
8 prohibition of hate crimes set forth in subdivision (a) of Section  
9 422.6 of the Penal Code, equal rights and opportunities in the  
10 postsecondary institutions of the state. The purpose of this chapter  
11 is to prohibit acts that are contrary to that policy and to provide  
12 remedies therefor.

13 SEC. 20. Section 66260.5 is added to the Education Code, to  
14 read:

15 66260.5. “Disability” includes mental and physical disability.

16 SEC. 21. Section 66260.7 is added to the Education Code, to  
17 read:

18 66260.7. “Gender” means sex, and includes a person’s gender  
19 identity and gender related appearance and behavior whether or  
20 not stereotypically associated with the person’s assigned sex at  
21 birth.

22 SEC. 22. Section 66261.5 is added to the Education Code, to  
23 read:

24 66261.5. “Nationality” includes citizenship, country of origin,  
25 and national origin.

26 SEC. 23. Section 66261.7 is added to the Education Code, to  
27 read:

28 66261.7. “Race or ethnicity” includes ancestry, color, and  
29 ethnic background.

30 SEC. 24. Section 66262 of the Education Code is repealed.

31 ~~66262. “Sex” has the same meaning as defined in Section 212.~~

32 SEC. 25. Section 66262 is added to the Education Code, to  
33 read:

34 66262. “Religion” includes all aspects of religious belief,  
35 observance, and practice and includes agnosticism and atheism.

36 SEC. 26. Section 66262.7 is added to the Education Code, to  
37 read:

38 66262.7. “Sexual orientation” means heterosexuality,  
39 homosexuality, or bisexuality.

1 SEC. 27. Section 66269 is added to the Education Code, to  
2 read:

3 66269. Disability, gender, nationality, race or ethnicity,  
4 religion, sexual orientation, or any other characteristic contained  
5 in the definition of hate crimes set forth in Section 422.55 of the  
6 Penal Code includes a perception that the person has any of those  
7 characteristics or that the person is associated with a person who  
8 has, or is perceived to have, any of those characteristics.

9 SEC. 28. Section 66270 of the Education Code is amended to  
10 read:

11 66270. No person shall be subjected to discrimination on the  
12 basis of ~~sex, ethnic group identification, race, national origin,~~  
13 ~~religion, color, or mental or physical disability, or any basis~~  
14 *disability, gender, nationality, race or ethnicity, religion, sexual*  
15 *orientation, or any other characteristic* that is contained in the  
16 prohibition of hate crimes set forth in subdivision (a) of Section  
17 422.6 of the Penal Code in any program or activity conducted by  
18 any postsecondary educational institution that receives, or benefits  
19 from, state financial assistance or enrolls students who receive  
20 state student financial aid.