

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1146**

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**Introduced by Senator Lara**

February 18, 2016

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An act to amend Section ~~8499.10~~ of 66271 of, and to add Sections 66290.1, 66290.2, 66292.5, and 66292.8 to, the Education Code, relating to ~~education programs: postsecondary education.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1146, as amended, Lara. ~~Education programs: Head Start. Postsecondary education: nondiscrimination.~~

*The Equity in Higher Education Act, among other things, prohibits a person from being subjected to discrimination on the basis of specified attributes, including sex, in any program or activity conducted by a postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid. Existing federal law, known as Title IX of the Education Amendments of 1972, 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. Both the federal and state laws do not apply to an educational institution that is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization. Title IX provides a private right of action for violation of its provisions by a public postsecondary educational institution.*

*This bill would limit the religious exemption from the Equity in Higher Education Act to certain educational programs and activities of a postsecondary educational institution that is controlled by a religious*

organization. The bill would require an institution that claims an exemption from either the Equity in Higher Education Act or Title IX to make specified disclosures to the institution's current and prospective students, faculty members, and employees, and to the Student Aid Commission, concerning the institution's claim for the exemption. The bill would require the commission to collect the information it receives and post and maintain a list on the commission's Internet Web site of all institutions claiming the exemption and their respective bases for claiming the exemption. The bill would specify that an individual who is denied equal rights or opportunities on the basis of gender identity, gender expression, or sexual orientation by a postsecondary educational institution that claims the Title IX exemption may seek appropriate remedies through civil action for violations of the Equity in Higher Education Act. The bill would make the provisions of the Equity in Higher Education Act severable.

~~Existing law provides that the Legislature finds and declares certain things about the federal Head Start program, including that the Congress has recognized the importance of the transfer from preschool to primary school.~~

~~This bill would make nonsubstantive changes to this law.~~

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

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

1     SECTION 1. Section 66271 of the Education Code is amended  
2     to read:  
3     66271. This chapter shall not apply to *educational programs*  
4     *or activities offered by* an educational institution that is controlled  
5     by a religious organization *to prepare students to become ministers*  
6     *of the religion, to enter upon some other vocation of the religion,*  
7     *or to teach theological subjects pertaining to the religion,* if the  
8     application of *this chapter* would not be consistent with the  
9     religious tenets of that organization.  
10    SEC. 2. Section 66290.1 is added to the Education Code, to  
11    read:  
12    66290.1. (a) Each postsecondary educational institution in  
13    this state that claims an exemption pursuant to Section 901(a)(3)  
14    of the federal Title IX of the Education Amendments of 1972 (20  
15    U.S.C. Sec. 1681(a)(3)) or Section 66271 shall disclose to current

1 *and prospective students, faculty members, and employees the*  
2 *basis for claiming the exemption.*

3 *(b) The disclosure required in subdivision (a) shall be made in*  
4 *all of the following ways:*

5 *(1) The disclosure shall be displayed in a prominent location*  
6 *of the campus or school site. “Prominent location” means that*  
7 *location, or those locations, in the main administrative building*  
8 *or other area where notices regarding the institution’s rules,*  
9 *regulations, procedures, and standards of conduct are posted.*

10 *(2) The disclosure shall be included in written materials sent*  
11 *to prospective students seeking admission to the postsecondary*  
12 *educational institution.*

13 *(3) The disclosure shall be provided as part of orientation*  
14 *programs conducted for new students at the beginning of each*  
15 *quarter, semester, or summer session, as applicable.*

16 *(4) The disclosure shall be provided to each faculty member,*  
17 *member of the administrative staff, and member of the support*  
18 *staff at the beginning of the first quarter or semester of each school*  
19 *year. The disclosure shall be provided to each new employee upon*  
20 *his or her hire.*

21 *(5) The disclosure shall be included in any publication of the*  
22 *institution that sets forth the comprehensive rules, regulations,*  
23 *procedures, and standards of conduct for the institution.*

24 *SEC. 3. Section 66290.2 is added to the Education Code, to*  
25 *read:*

26 *66290.2. (a) Each postsecondary educational institution in*  
27 *this state that claims an exemption pursuant to Section 901(a)(3)*  
28 *of the federal Title IX of the Education Amendments of 1972 (20*  
29 *U.S.C. Sec. 1681(a)(3)) or Section 66271 shall submit to the*  
30 *Student Aid Commission copies of all materials submitted to, and*  
31 *received from, a state or federal agency concerning the granting*  
32 *of the exemption.*

33 *(b) The Student Aid Commission shall collect the information*  
34 *received pursuant to subdivision (a) and post and maintain a list*  
35 *on the commission’s Internet Web site of the institutions that have*  
36 *claimed the exemption with their respective bases for claiming the*  
37 *exemption.*

38 *SEC. 4. Section 66292.5 is added to the Education Code, to*  
39 *read:*

1 66292.5. (a) Any individual who is denied equal rights or  
2 opportunities on the basis of gender identity, gender expression,  
3 or sexual orientation by a postsecondary educational institution  
4 that claims an exemption pursuant to Section 901(a)(3) of the  
5 federal Title IX of the Education Amendments of 1972 (20 U.S.C.  
6 Sec. 1681(a)(3)) may seek appropriate remedies both at law and  
7 in equity through a civil action, including the award of monetary  
8 damages, for intentional violations of this chapter.

9 (b) Nothing in this section shall be construed to impair or  
10 impede any other rights, causes of action, claims, or defenses  
11 available under other law. The remedies provided in this section  
12 are cumulative with any other remedies available under other law.

13 SEC. 5. Section 66292.8 is added to the Education Code, to  
14 read:

15 66292.8. The provisions of this chapter are severable. If any  
16 provision of this chapter or its application is held invalid, that  
17 invalidity shall not affect other provisions or applications that can  
18 be given effect without the invalid provision or application.

19 SECTION 1. ~~Section 8499.10 of the Education Code is~~  
20 ~~amended to read:~~

21 ~~8499.10. The Legislature finds and declares all of the following:~~

22 ~~(a) The Congress has recognized the importance of the transfer~~  
23 ~~from preschool to primary school. Section 642A of Title VI of~~  
24 ~~Subtitle A of Chapter 8 of Subchapter B of the federal Omnibus~~  
25 ~~Budget Reconciliation Act of 1981 (Public Law 97-35) was enacted~~  
26 ~~to require federal Head Start funds grantees to take steps to~~  
27 ~~coordinate with and involve the local educational agency serving~~  
28 ~~the community, including, but not limited to, all of the following:~~

29 ~~(1) Developing and implementing a systematic procedure for~~  
30 ~~transferring, with parental consent, Head Start program records~~  
31 ~~for each participating child to the school in which the child will~~  
32 ~~enroll.~~

33 ~~(2) Establishing channels of communication between Head Start~~  
34 ~~staff and their counterparts in the schools, including, but not limited~~  
35 ~~to, teachers, social workers, and health staff, to facilitate the~~  
36 ~~coordination of programs.~~

37 ~~(3) Conducting meetings involving parents, kindergarten or~~  
38 ~~elementary school teachers, and Head Start program teachers to~~  
39 ~~discuss the educational, developmental, and other needs of~~  
40 ~~individual children.~~

- 1     ~~(4) Organizing and participating in joint transition-related~~  
2 ~~training of school staff and Head Start staff.~~
- 3     ~~(5) Developing and implementing a family outreach and support~~  
4 ~~program in cooperation with entities carrying out parental~~  
5 ~~involvement efforts under Title I of federal the Elementary and~~  
6 ~~Secondary Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.).~~
- 7     ~~(6) Assisting families, administrators, and teachers in enhancing~~  
8 ~~educational and developmental continuity between Head Start~~  
9 ~~services and elementary school classes.~~
- 10    ~~(7) Linking the services provided in the Head Start program~~  
11 ~~with the education services provided by the local educational~~  
12 ~~agency.~~
- 13    ~~(b) The Superintendent shall advise local educational agencies~~  
14 ~~of these federal requirements.~~