

Assembly Bill No. 499

CHAPTER 914

An act to amend Sections 200, 211, 212, 212.5, 213, 214, 220, 223, 224, 250, 251, 253, 262.3, and 72012 of, to amend the headings of Chapter 2 (commencing with Section 200) of, and Article 3 (commencing with Section 220) of, Chapter 2 of Part 1 of, to amend and renumber Sections 40, 41, 45, 210, 212.6, 222, 226, 227, 228, 232, 262, 262.1, 262.2, 263, 33032.5, 44806, 52905, 52906, 52907, 52908, 58508, and 72015 of, to amend and renumber the headings of Article 4 (commencing with Section 240) of, Article 5 (commencing with Section 250) of, and Article 6 (commencing with Section 260) of, Chapter 2 of Part 1 of, to add Sections 210, 262.4, and 264 to, to add the headings of Article 4 (commencing with Section 221.5) of, Article 5 (commencing with Section 233) of, Article 6 (commencing with Section 235) of, and Article 11 (commencing with Section 280) of, Chapter 2 of Part 1 of, and to add Chapter 4.5 (commencing with Section 66250) to Part 40 of, and to repeal the headings of Article 4 (commencing with Section 40) of, and Article 4.5 (commencing with Section 45) of, Chapter 1 of Part 1 of, and Article 8 (commencing with Section 52905) of Chapter 12 of Part 28 of, the Education Code, relating to education.

[Approved by Governor September 28, 1998. Filed
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LEGISLATIVE COUNSEL'S DIGEST

AB 499, Kuehl. Education: diversity in education: Sex Equity in Education Act.

Under existing law, numerous provisions of the Education Code relate to the prohibition of discrimination in the provision of educational services by elementary, secondary, and postsecondary institutions.

Under existing law, the governing board of a school district has primary responsibility for ensuring that school district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability. Existing law contains comparable provisions for the community colleges, the California State University system, and the University of California system. Existing law provides that a party to a written complaint of prohibited discrimination may appeal the action to specified bodies. Existing law also requires that persons who have filed a complaint of prohibited discrimination be advised by the educational institution that civil law remedies may also be available to the complainant.

This bill would revise and recast numerous provisions of the Education Code relating to the prohibition of discrimination. The bill would organize these provisions into 2 legislative schemes, one of which would be applicable to elementary and secondary schools, and one of which would be applicable to postsecondary educational institutions, as defined.

The bill would specify that the provisions on discrimination may be enforced through a civil action.

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

SECTION 1. The heading of Article 4 (commencing with Section 40) of Chapter 1 of Part 1 of the Education Code is repealed.

SEC. 2. Section 40 of the Education Code is amended and renumbered to read:

221.5. (a) It is 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 and courses.

(b) No school district shall prohibit any pupil from enrolling in any class or course on the basis of the sex of the pupil, except a class subject to Section 51550.

(c) No school district shall require pupils of one sex to enroll in a particular class or course, unless the same class or course is also required of pupils of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a pupil, offer vocational or school program guidance to pupils of one sex that is different from that offered to pupils of the opposite sex or, in counseling pupils, differentiate career, vocational, or higher education opportunities on the basis of the sex of the pupil counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex. The parents or legal guardian of the pupil shall be notified in a general manner at least once in the manner prescribed by Section 48980, in advance of career counseling and course selection commencing with course selection for grade 7 so that they may participate in the counseling sessions and decisions.

(e) Participation in a particular physical education activity or sport, if required of pupils of one sex, shall be available to pupils of each sex.

SEC. 3. Section 41 of the Education Code is amended and renumbered to read:

221.7. (a) The Legislature finds and declares that female pupils are not accorded opportunities for participation in school-sponsored athletic programs equal to those accorded male pupils. It is the intent



of the Legislature that opportunities for participation in athletics be provided equally to male and female pupils.

(b) Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of a school district governing board or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and participation include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(c) Nothing in this section shall be construed to require a school district to require competition between male and female pupils in school-sponsored athletic programs.

SEC. 4. The heading of Article 4.5 (commencing with Section 45) of Chapter 1 of Part 1 of the Education Code is repealed.

SEC. 5. Section 45 of the Education Code is amended and renumbered to read:

201. (a) All pupils have the right to participate fully in the educational process, free from discrimination and harassment.

(b) California's public schools have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.

(c) Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.

(d) There is an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools.

(e) There is an urgent need to teach and inform pupils in the public schools about their rights, as guaranteed by the federal and state constitutions, in order to increase pupils' awareness and understanding of their rights and the rights of others, with the intention of promoting tolerance and sensitivity in public schools and in society as a means of responding to potential harassment and hate violence.

(f) It is the intent of the Legislature that each public school undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of pupils to equal educational opportunity.

(g) It is the intent of the Legislature that this chapter shall be interpreted as consistent with Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Title VI of the federal Civil Rights Act of 1964 (42



U.S.C. Sec. 1981, et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)), the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the federal Equal Educational Opportunities Act (20 U.S.C. Sec. 1701, et seq.), the Unruh Civil Rights Act (Secs. 51 to 53, incl., Civ. C.), and the Fair Employment and Housing Act (Pt. 2.8 (commencing with Sec. 12900), Div. 3, Gov. C.), except where this chapter may grant more protections or impose additional obligations, and that the remedies provided herein shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes.

SEC. 6. The heading of Chapter 2 (commencing with Section 200) of Part 1 of the Education Code is amended to read:

CHAPTER 2. EDUCATIONAL EQUITY

SEC. 7. Section 200 of the Education Code is amended to read:

200. (a) It is the policy of the State of California to afford all persons in public schools, regardless of their sex, ethnic group identification, race, national origin, religion, or mental or physical disability, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor.

SEC. 8. Section 210 is added to the Education Code, to read:

210. The definitions in this article shall govern the use of the terms defined for purposes of this chapter.

SEC. 9. Section 210 of the Education Code is amended and renumbered to read:

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

SEC. 10. Section 211 of the Education Code is amended to read:

211. "Governing board" means the governing board of a school district.

SEC. 11. Section 212 of the Education Code is amended to read:

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

SEC. 12. Section 212.5 of the Education Code is amended to read:

212.5. "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:



(a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

(b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

(c) The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

(d) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

SEC. 13. Section 212.6 of the Education Code is amended and renumbered to read:

231.5. (a) It is the policy of the State of California, pursuant to Section 200, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the educational institutions of the state. The purpose of this section is to provide notification of the prohibition against sexual harassment as a form of sexual discrimination and to provide notification of available remedies.

(b) Each educational institution in the State of California shall have a written policy on sexual harassment. It is the intent of the Legislature that each educational institution in this state include this policy in its regular policy statement rather than distribute an additional written document.

(c) The educational institution's written policy on sexual harassment shall include information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies.

(d) A copy of the educational institution's written policy on sexual harassment shall be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite. "Prominent location" means that location, or those locations, in the main administrative building or other area where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

(e) A copy of the educational institution's written policy on sexual harassment, as it pertains to students, shall be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session, as applicable.

(f) A copy of the educational institution's written policy on sexual harassment shall be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the



beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired.

(g) A copy of the educational institution’s written policy on sexual harassment shall appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution.

SEC. 14. Section 213 of the Education Code is amended to read:

213. (a) “State financial assistance” means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance to any educational institution for its own benefit or for the benefit of any pupils admitted to the educational institution.

(b) State financial assistance shall include, but not be limited to, all of the following:

- (1) Grants of state property, or any interest therein.
- (2) Provision of the services of state personnel.
- (3) Funds provided by contract, tax rebate, appropriation, allocation, or formula.

SEC. 15. Section 214 of the Education Code is amended to read:

214. “State student financial aid” means any funds or other form of financial aid appropriated or authorized pursuant to state law, or pursuant to federal law administered by any state agency, for the purpose of providing assistance directly to any student admitted to an educational institution. State student financial aid shall include, but not be limited to, scholarships, loans, grants, or wages.

SEC. 16. The heading of Article 3 (commencing with Section 220) of Chapter 2 of Part 1 of the Education Code is amended to read:

Article 3. Prohibition of Discrimination

SEC. 17. Section 220 of the Education Code is amended to read:

220. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

SEC. 18. The heading of Article 4 (commencing with Section 221.5) is added to Chapter 2 of Part 1 of the Education Code, to read:

Article 4. Sex Equity in Education Act

SEC. 19. Section 222 of the Education Code is amended and renumbered to read:



66272. This article shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine.

SEC. 20. Section 223 of the Education Code is amended to read:

223. This chapter shall not apply to the membership practices of the Young Men's Christian Association, Young Women's Christian Association, girl scouts, boy scouts, Camp Fire, or voluntary youth service organizations which are exempt from taxation under subdivision (a) of Section 501 of the federal Internal Revenue Code of 1954, whose membership has traditionally been limited to persons of one sex, and principally to persons of less than 19 years of age.

SEC. 21. Section 224 of the Education Code is amended to read:

224. The sex discrimination provisions of this article shall not apply to any of the following, provided that these conferences comply with other nondiscrimination provisions of state and federal law:

(a) Any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference.

(b) Any program or activity of any secondary educational institution specifically for any of the following purposes:

(1) The promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference.

(2) The selection of students to attend any of those conferences.

SEC. 22. Section 226 of the Education Code is amended and renumbered to read:

66276. This article shall not apply to any scholarship or other financial assistance awarded by a postsecondary educational institution to any individual upon the basis of a combination of factors related to the individual's personal appearance, poise, and talent as an award in any pageant in which participation is limited exclusively to individuals of one sex, provided that the pageant complies with other nondiscrimination provisions of state and federal law.

SEC. 23. Section 227 of the Education Code is amended and renumbered to read:

66277. In regard to admissions to educational institutions, this article shall apply only to institutions of vocational, professional, or postgraduate education, and to public postsecondary education institutions.

SEC. 24. Section 228 of the Education Code is amended and renumbered to read:

66278. In regard to admissions to educational institutions, this article shall not apply to any public institution of undergraduate higher education which traditionally and continually from its establishment has had a policy of admitting only students of one sex.



SEC. 25. Section 232 of the Education Code, as amended by Section 5 of Chapter 938 of the Statutes of 1995, is amended and renumbered to read:

221.1. The State Board of Education shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, commonly referred to as the rulemaking provisions of the Administrative Procedure Act, to implement this chapter.

SEC. 26. The heading of Article 5 (commencing with Section 233) is added to Chapter 2 of Part 1 of the Education Code, to read:

Article 5. Hate Violence Prevention Act

SEC. 27. The heading of Article 6 (commencing with Section 235) is added to Chapter 2 of Part 1 of the Education Code, to read:

Article 6. Alternative Schools, Charter Schools, and School Choice

SEC. 28. The heading of Article 4 (commencing with Section 240) of Chapter 2 of Part 1 of the Education Code, is amended and renumbered to read:

Article 7. Instructional Materials

SEC. 29. The heading of Article 5 (commencing with Section 250) of Chapter 2 of Part 1 of the Education Code is amended and renumbered to read:

Article 8. Compliance

SEC. 30. Section 250 of the Education Code is amended to read:

250. Prior to receipt of any state financial assistance or state student financial aid, an educational institution shall provide assurance to the agency administering the funds, in the manner required by the funding agency, that each program or activity conducted by the educational institution will be conducted in compliance with the provisions of this chapter and all other applicable provisions of state law prohibiting discrimination. A single assurance, not more than one page in length and signed by an appropriate responsible official of the educational institution, may be provided for all the programs and activities conducted by an educational institution.

SEC. 31. Section 251 of the Education Code is amended to read:

251. (a) A school district shall submit timely, complete, and accurate compliance reports to the State Department of Education as that entity may require.



(b) All reports submitted pursuant to this section shall be made available by the educational institution for public inspection during regular business hours.

SEC. 32. Section 253 of the Education Code is amended to read:

253. (a) Compliance with the sex discrimination provisions of this chapter and regulations adopted pursuant to this chapter shall be included in the annual Coordinated Compliance Review Manual provided to school districts by the Superintendent of Public Instruction. Any review of that compliance shall also include a review of the school district's records of complaints of sexual harassment brought by pupils and employees of the school district.

(b) The superintendent shall annually review 20 school districts for compliance with sex discrimination laws and regulations as specified in subdivision (a). The superintendent shall select from those districts subject to review, in a given year, a sampling of districts from each of the following categories:

(1) Those districts within which the greatest number of sex discrimination complaints have been filed since its previous coordinated compliance review.

(2) Those districts with the largest enrollments.

(3) All other districts, selected on a random basis.

(c) The superintendent and the department shall only be required to implement the provisions enumerated in this section in fiscal years in which sufficient funds have been appropriated for those purposes.

SEC. 33. The heading of Article 6 (commencing with Section 260) of Chapter 2 of Part 1 of the Education Code is amended and renumbered to read:

Article 9. Enforcement

SEC. 34. Section 262 of the Education Code is amended and renumbered to read:

66292. (a) The governing board of a community college district shall have the primary responsibility for ensuring that community college district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

(b) The Chancellor's office of the California Community Colleges shall have responsibility for monitoring the compliance of each district with any and all regulations adopted pursuant to Section 11138 of the Government Code.

SEC. 35. Section 262.1 of the Education Code is amended and renumbered to read:

66292.1. The Chancellor of the California State University and the president of each California State University campus shall have the primary responsibility for ensuring that campus programs and



activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

SEC. 36. Section 262.2 of the Education Code is amended and renumbered to read:

66292.2. The President of the University of California and the chancellor of each University of California campus shall have primary responsibility for ensuring that campus programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

SEC. 37. Section 262.3 of the Education Code is amended to read:

262.3. (a) A party to a written complaint of prohibited discrimination may appeal the action taken by the governing board of a school district pursuant to this article, to the State Department of Education.

(b) Persons who have filed a complaint, pursuant to this chapter, with an educational institution shall be advised by the educational institution that civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders may also be available to complainants. The educational institution shall make this information available by publication in appropriate informational materials.

(c) Nothing in this chapter shall be construed to require an exhaustion of the administrative complaint process before civil law remedies may be pursued.

(d) Notwithstanding any other provision of law, a person who alleges that he or she is a victim of discrimination may not seek civil remedies pursuant to this section until at least 60 days have elapsed from the filing of an appeal to the State Department of Education pursuant to Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations. The moratorium imposed by this subdivision does not apply to injunctive relief and is applicable only if the local educational agency has appropriately, and in a timely manner, apprised the complainant of his or her right to file a complaint.

SEC. 38. Section 262.4 is added to the Education Code, to read:

262.4. This chapter may be enforced through a civil action.

SEC. 39. Section 263 of the Education Code is amended and renumbered to read:

66293. The California Postsecondary Education Commission shall report to the Legislature and Governor on the representation and utilization of ethnic minorities and women among academic, administrative, and other employees at the community colleges, the California State University, and the University of California, pursuant to Sections 66903.1 and 66903.3.

SEC. 40. The heading of Article 11 (commencing with Section 280) is added to Chapter 2 of Part 1 of the Education Code, to read:



Article 11. The Bill Bradley Human Relations Pilot Project

SEC. 41. Section 33032.5 of the Education Code is amended and renumbered to read:

233. (a) At the request of the Superintendent of Public Instruction, the State Board of Education shall do all of the following as long as the board's actions do not result in a state mandate or an increase in costs to a state or local program:

(1) Adopt policies directed toward creating a school environment in kindergarten and grades 1 to 12, inclusive, that is free from discriminatory attitudes and practices and acts of hate violence.

(2) Revise, as needed, and in accordance with the State Board of Education's adopted Schedule for Curriculum Framework Development and Adoption of Instructional Materials developed pursuant to Section 60200, the state curriculum frameworks and guidelines and the moral and civic education curricula to include human relations education, with the aim of fostering an appreciation of people of different ethnicities.

(3) Establish guidelines for use in teacher and administrator in-service training programs to promote an appreciation of diversity and to discourage the development of discriminatory attitudes and practices that prevent pupils from achieving their full potential.

(4) Establish guidelines for use in teacher and administrator in-service training programs designed to enable teachers and administrators to prevent and respond to acts of hate violence occurring on their school campuses.

(5) Establish guidelines designed to raise the awareness and sensitivity of teachers, administrators, and school employees to potentially prejudicial and discriminatory behavior and to encourage the participation of these groups in these programs.

(6) Develop guidelines relating to the development of nondiscriminatory instructional and counseling methods.

(7) Revise any appropriate guidelines previously adopted by the board to include procedures for preventing and responding to acts of hate violence.

(b) The State Department of Education, in accordance with policies established by the State Board of Education for purposes of this subdivision, shall do all of the following:

(1) Prepare guidelines for the design and implementation of local programs and instructional curricula that promote understanding, awareness, and appreciation of the contributions of people with diverse backgrounds and of harmonious relations in a diverse society. The guidelines shall include methods of evaluating the programs and curricula and suggested procedures to ensure coordination of the programs and curricula with appropriate local public and private agencies.



(2) Provide grants, from funds appropriated for that purpose, to school districts and county offices of education to develop programs and curricula consistent with the guidelines developed in paragraph (1).

(3) To the extent possible, provide advice and direct services, consistent with the guidelines developed in paragraph (1), to school districts and county offices of education that implement the programs and curricula developed in paragraph (2).

(c) The State Board of Education shall carry out this section only if private funds, in an amount sufficient to pay for related State Department of Education staff activities on behalf of the board, are made available.

(d) Nothing in this section shall be construed to require the governing board of a school district to offer any ethnic studies or human relations courses in the district.

(e) As used in this section, “hate violence” means any act punishable under Section 422.6, 422.7, or 422.75 of the Penal Code.

SEC. 42. Section 44806 of the Education Code is amended and renumbered to read:

233.5. (a) Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship, and the meaning of equality and human dignity, including the promotion of harmonious relations, kindness toward domestic pets and the humane treatment of living creatures, to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government.

(b) Each teacher is also encouraged to create and foster an environment that encourages pupils to realize their full potential and that is free from discriminatory attitudes, practices, events, or activities, in order to prevent acts of hate violence, as defined in subdivision (e) of Section 233.

SEC. 43. The heading of Article 8 (commencing with Section 52905) of Chapter 12 of Part 28 of the Education Code is repealed.

SEC. 44. Section 52905 of the Education Code is amended and renumbered to read:

280. The Legislature finds and declares all of the following:

(a) California’s schoolage population is changing dramatically, becoming increasingly diverse both racially and ethnically. These changing patterns of our social fabric have presented society with serious opportunities and concerns in the area of human relations.

(b) School districts are an effective vehicle for teaching children human relations and prejudice reduction.

(c) Through the use of a pilot project, human relations materials that foster cooperation and group work can increase academic



achievement and self-esteem, and promote positive interaction among pupils from different racial, religious, and ethnic groups.

(d) It is the intent of the Legislature that the development of human relations materials and staff training modules provide models for the implementation of California's most recent History/Social Studies Framework.

SEC. 45. Section 52906 of the Education Code is amended and renumbered to read:

281. (a) The Superintendent of Public Instruction shall authorize the development of the Bill Bradley Human Relations Pilot Project for teaching a course on human relations, and shall do the following:

(1) Consult with teachers, administrators, school board members, a representative of the California Congress of Parents, Teachers, and Students, and at least four statewide human relations agencies, including the Anti-Defamation League of B'nai B'rith, the National Association for the Advancement of Colored People, the Asian Pacific American Legal Center, and the Mexican American Legal Defense Educational Fund, in the development of the human relations course.

(2) Recommend the course curriculum to the State Board of Education.

(3) Select three school districts, from among interested school districts, to participate in the pilot project. The selected districts shall reflect the geographic and ethnic diversity of communities in California.

(4) Oversee the training of appropriate staff in the three school districts pursuant to this article.

(5) Designate whether the course shall be for 5 or 10 weeks in duration.

(b) Either the superintendent or the participating school districts shall designate whether the course will be taught in grade 8, 9, or 10.

(c) The course shall be designed to allow the selected school districts to tailor the materials to the needs of their specific communities.

SEC. 46. Section 52907 of the Education Code is amended and renumbered to read:

282. The human relations course developed pursuant to this article shall encompass the following goals:

(a) Fostering cooperation and promoting positive interaction among pupils of different racial and ethnic groups.

(b) Developing an understanding of ethnic diversity within California, throughout the nation, and in the world.

(c) Understanding the dangers of stereotyping and discrimination that have existed throughout history and recognizing the protections offered to all by a democratic society.



(d) Appreciating the contributions of minority groups to the development of the United States.

SEC. 47. Section 52908 of the Education Code is amended and renumbered to read:

283. The human relations course developed pursuant to this article shall be designed and be ready for implementation by the 1990-91 school year.

SEC. 48. Section 58508 of the Education Code is amended and renumbered to read:

235. There shall be no racial, sex, or ethnic discrimination in any aspect of the operation of alternative schools, charter schools, or the Demonstration Scholarship Program.

SEC. 49. Chapter 4.5 (commencing with Section 66250) is added to Part 40 of the Education Code, to read:

CHAPTER 4.5. SEX EQUITY IN EDUCATION ACT

Article 1. Title and Declaration of Purpose

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

66251. It is the policy of the State of California to afford all persons, regardless of their sex, ethnic group identification, race, national origin, religion, or mental or physical disability, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

66252. (a) All students have the right to participate fully in the educational process, free from discrimination and harassment.

(b) California's postsecondary educational institutions have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.

(c) Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.

(d) There is an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools.

(e) There is an urgent need to teach and inform students in the public schools about their rights, as guaranteed by the federal and state constitutions, in order to increase students' awareness and understanding of their rights and the rights of others, with the intention of promoting tolerance and sensitivity in postsecondary educational institutions and in society as a means of responding to potential harassment and hate violence.



(f) It is the intent of the Legislature that each postsecondary educational institution undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of students to equal educational opportunity.

(g) It is the intent of the Legislature that this chapter shall be interpreted as consistent with Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 1981, et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)), the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the federal Equal Educational Opportunities Act (20 U.S.C. Sec. 1701, et seq.), the Unruh Civil Rights Act (Secs. 51 to 53, incl., Civ. C.), and the Fair Employment and Housing Act (Pt. 2.8 (commencing with Sec. 12900), Div. 3, Gov. C.), except where this chapter may grant more protections or impose additional obligations, and that the remedies provided herein shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes.

Article 2. Definitions

66260. The definitions in this article shall govern the use of the terms defined for purposes of this chapter.

66261. “Governing board” means the governing board of a community college.

66261.5. “Postsecondary educational institution” means a public or private institution of vocational, professional, or postsecondary education; the governing board of a community college district; the Regents of the University of California; or the Trustees of the California State University.

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

66262.5. “Sexual harassment” has the same meaning as defined in Section 212.5.

66263. “State financial assistance” has the same meaning as defined in Section 213.

66264. “State student financial aid” has the same meaning as defined in Section 214.

Article 3. Prohibition of Discrimination

66270. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability in any program or activity



conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

66271. This chapter shall 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.

66271.1. The Board of Governors of the California Community Colleges and the Trustees of the California State University shall, and the Regents of the University of California may, adopt regulations as required by law to implement this chapter.

Article 4. Sex Equity in Education

66271.5. The provisions of this article are supplemental to any provision in the Constitution or laws of the United States or laws of the State of California, relating to discrimination.

66273. This article shall not apply to the membership practices of a social fraternity or social sorority, exempt from taxation under subdivision (a) of Section 501 of the federal Internal Revenue Code of 1954, whose active membership consists primarily of students in attendance at a postsecondary educational institution.

66281.5. (a) It is the policy of the State of California, pursuant to Section 66251, that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the postsecondary educational institution of the state. The purpose of this section is to provide notification of the prohibition against sexual harassment as a form of sexual discrimination and to provide notification of available remedies.

(b) Each postsecondary educational institution in the State of California shall have a written policy on sexual harassment. It is the intent of the Legislature that each educational institution in this state include this policy in its regular policy statement rather than distribute an additional written document.

(c) The postsecondary educational institution's written policy on sexual harassment shall include information on where to obtain the specific rules and procedures for reporting charges of sexual harassment and for pursuing available remedies.

(d) A copy of the postsecondary educational institution's written policy on sexual harassment shall be displayed in a prominent location in the main administrative building or other area of the campus or schoolsite. "Prominent location" means that location, or those locations, in the main administrative building or other area where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

(e) A copy of the postsecondary educational institution's written policy on sexual harassment, as it pertains to students, shall be provided as part of any orientation program conducted for new



students at the beginning of each quarter, semester, or summer session, as applicable.

(f) A copy of the postsecondary educational institution's written policy on sexual harassment shall be provided for each faculty member, all members of the administrative staff, and all members of the support staff at the beginning of the first quarter or semester of the school year, or at the time that there is a new employee hired.

(g) A copy of the postsecondary educational institution's written policy on sexual harassment shall appear in any publication of the institution that sets forth the comprehensive rules, regulations, procedures, and standards of conduct for the institution.

Article 5. Compliance and Enforcement

66290. Prior to receipt of any state financial assistance or state student financial aid, a postsecondary educational institution shall provide assurance to the agency administering the funds, in the manner required by the funding agency, that each program or activity conducted by the postsecondary educational institution will be conducted in compliance with this chapter and all other applicable provisions of state law prohibiting discrimination on the basis of sex. A single assurance, not more than one page in length and signed by an appropriate responsible official of the postsecondary educational institution, may be provided for all the programs and activities conducted by a postsecondary educational institution.

66291. (a) A community college district shall submit timely, complete, and accurate compliance reports to the chancellor's office, as that entity may require.

(b) All reports submitted pursuant to this section shall be made available by the educational institution for public inspection during regular business hours.

66292.3. (a) A party to a written complaint of prohibited discrimination may appeal the action taken by the governing board of a community college district or the president of a campus of the California State University, pursuant to this article, to the Board of Governors of the California Community Colleges or the Chancellor of the California State University, as applicable.

(b) Persons who have filed a complaint, pursuant to this chapter, with an educational institution shall be advised by the educational institution that civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders, may also be available to complainants. The educational institution shall make this information available by publication in appropriate informational materials.

(c) Nothing in this chapter shall be construed to require an exhaustion of the appeal to the Board of Governors of the California Community Colleges or to the Chancellor of the California State



University pursuant to subdivision (a), before civil law remedies may be purchased.

(d) Notwithstanding any other provision of law, a person who alleges that he or she is a victim of discrimination may not seek civil remedies pursuant to this section until at least 90 days have elapsed from the filing of a discrimination complaint with the local educational agency. The 90-day moratorium imposed by this subdivision does not apply to injunctive relief and is applicable only if the local educational agency has appropriately, and in a timely manner, apprised the complainant of his or her right to file a complaint.

66292.4. This chapter may be enforced through a civil action.

SEC. 50. Section 72012 of the Education Code is amended to read:

72012. Every community college shall comply with Sections 221.5, 221.7, and 66016, relating to sex discrimination.

SEC. 51. Section 72015 of the Education Code is amended and renumbered to read:

66271.7. (a) It is the policy of the state that community college classes and courses, including nonacademic and elective classes and courses, shall be conducted without regard to the sex of the student enrolled in these classes and courses.

(b) No community college district shall prohibit any student from enrolling in any class or course on the basis of the sex of the student.

(c) No community college district shall require students of one sex to enroll in a particular class or course, unless the same class or course is also required of students of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or aide shall, on the basis of the sex of a student, offer vocational or school program guidance to students of one sex which is different from that offered to students of the opposite sex or, in counseling students, differentiate career, vocational or higher education opportunities on the basis of the sex of the student counseled. Any school personnel acting in a career counseling or course selection capacity to any pupil shall affirmatively explore with the pupil the possibility of careers, or courses leading to careers, that are nontraditional for that pupil's sex.

(e) Participation in a particular physical education activity or sport, if required of students of one sex, shall be available to students of each sex.

(f) The Legislature finds and declares that female students are not accorded opportunities for participation in community college athletic programs equal to those accorded male students. It is the intent of the Legislature that opportunities for participation in community college athletics be provided equally to male and female students and on an equitable basis to all students.

(g) Insofar as practicable, in apportioning public funds, community college district governing boards shall apportion amounts available for athletics to ensure that equitable amounts will



be allocated for all students, except that allowances may be made for differences in the costs of various athletic programs. Notwithstanding any other provisions of law, no public funds shall be used in connection with any athletic program conducted under the auspices of the governing board of a community college district, or any student organization within the district, which does not provide equal opportunity to both sexes for participation and for use of facilities. Facilities and opportunities for participation shall include, but are not limited to, equipment and supplies, scheduling of games and practice time, compensation for coaches, travel arrangements, per diem, locker rooms, and medical services.

(h) It is the further intent of the Legislature that females be given the same opportunity to participate in athletics and compete with other females in individual and team sports as is available to males who compete with other males in individual and team sports. Nothing in this section shall be construed to require a community college to require competition between male and female students in school-sponsored athletic programs.

