

Assembly Hearing March 25, 2019: Federal Title IX and the California Sex Equity in Education Laws Examined: The current state of gender equality in education.

Presented by: Alicia Hetman, AAUW of California aliciahetman15@gmail.com

Good afternoon, I am Alicia Hetman, A gender equity expert and the Title IX Chair for AAUW of California.

You may be wondering why Title IX is a big deal to a volunteer organization such as AAUW, or thinking, that females have it made now, after all we have professional women sport teams; but let me point out that in 2019 we still keep hearing about “the first woman to.....” It is because we still have these first time events that AAUW actively supports a fully realized Gender Fairness for All position in all of the work that we undertake.

Despite progress, challenges to gender equity in education still exists and I am pleased to share a brief overview of gender equity laws....and what work still needs to be done to “level the playing field” When I was classroom teacher, my theme was, “Education is not a spectator sport, get off of the bench and into the game.”

In 1963 the US Commission on the Status of Women issued a report documenting the secondary status of women in the United States, with a special focus on women’s economic disadvantages. One of the results of that study was the Equal Pay Act of 1963.

The Civil Rights Act of 1964 was the nation’s premier civil rights legislation. The Act outlawed discrimination on the basis of race, color, religion, sex, or national origin, required equal

access to public places and employment and enforced desegregation of schools.

The protections based on sex, however, were not fully realized under The Civil Rights Act; therefore in response to public pressure for sex equity in schools, Title IX was sponsored by AAUW member, Representative Patsy Mink of Hawaii and Senators Birch Bayh and George McGovern.

AAUW became an important voice in the coalition work that successfully promoted the passage of Title IX.

President Nixon signed the Education Amendments of 1972 in June and it became effective July 1, 1972.

Title IX, simply states:

No person in the United States shall, on the basis of sex, be excluded from participation in, Be denied the benefits of, Or be subjected to discrimination under any education program or activity receiving federal financial assistance.

Court-ordered busing was more visible and more controversial than banning sex discrimination in schools. To a large extent, Title IX did not garner attention from anyone until it was already law.

And then, opponents began efforts to weaken the impact of Title IX. The largest lobbying campaign against Title IX came from the National Collegiate Athletic Association. They argued that if colleges had to fund women's athletics more than they were already doing then Title IX would essentially "destroy major college football and basketball programs" at a time when women's athletic programs accounted for 2 percent of total

collegiate athletic budgets.

The Title IX regulations were not a top priority for the Department of Health, Education and Welfare, the regulations became effective on July 21, 1975.

The Office for Civil Rights was charged with the enforcement of Title IX, but without threats of lost financial aid-----school districts, colleges and universities simply have chosen not to enforce the regulations. This practice continues today and it is mostly through lawsuits that any progress in compliance has been made, one case at a time.

The enactment of Title IX has been supported in California by actions taken through the legislative process starting in 1976, when the first pieces of gender equity laws were enacted.

In 1982 Education Code added the Sex Equity in Education Act providing statutory framework to address gender discrimination. In 1984 A definition of sexual harassment. 1992 legislation added the uniform complaint procedures, 1993 grounds for suspension/expulsion for acts of sexual harassment were added. Also in 1998 written policies on sexual harassment.

The current Higher Education portion is in Title 3, Chapter 4.5 the Equity in Higher Education Act which includes the Sex Equity in Education.

In 1993, Assemblywoman Jackie Speier introduced AB 1476 to add gender equity to the coordinated compliance review process conducted for school districts receiving state funding.

It includes language that it is only required to be implemented when sufficient funds have been appropriated. Without any

funding, The onsite reviews were limited to 20 per year.....and at that rate, we would never realize full enforcement of these legal requirements in California.

I was hired by the California Department of Education in 1994 to develop and implement the provisions of AB 1476. I worked with legal counsel to develop the first 7-8 years of the compliance program. The process included three hour training sessions for responsible staff prior to the onsite reviews.

I started conducting these reviews twenty two years after the passage of Title IX. There were multiple non-compliance findings for almost all school districts. There were many schools that still had gender-segregated physical education classes.

During one compliance review, a middle school principal kept saying, you are going out to PE right? He knew that the single gender PE classes were wrong, but he wanted me to force the change through my compliance review. Title IX Coordinators didn't know how to do their jobs and didn't feel empowered to do their jobs; the state and federal legal provisions were not being implemented.

After I left that position, The CA Department of Education combined the Sex Equity in Education Act with other discrimination pieces and now is located in an Educational Equity section. I have great concerns about this since the protections based on gender are now surrounded by all other discrimination issues. Even when gender equity provisions sat alone, gender equity had not been achieved or maintained in most of California schools.

In addition, the on-site reviews have basically been replaced

with document reviews, weakening the previous compliance process. There is a significant difference between the onsite reviews that we created starting in 1994 to what is being provided by the CDE for document compliance now.

Assumptions and attitudes that people hold about appropriate female and male roles, jobs, and behaviors cannot be changed by law, but the rights, privileges, opportunities and treatment can and should be equalized.

When gender stereotypes guide educational programming, discrimination is at the program's root. Discrimination can play out in practices that violate student's civil rights. We are all individuals and learn in different ways, it is incorrect to believe the idea that there are hard-wired differences between boy's and girls' brains. Every student learns better when the teacher uses different strategies and methods to ensure that each child in the classroom has a fair chance to succeed.

Equitable treatment of all male and female students from preschool through university will increase fulfillment of individual potential. As individuals explore new opportunities to express their talents, the traditional stereotypes break down and change basic assumptions about gender appropriate roles, jobs and behaviors.

The training that had the most positive impact on my teaching, Gender/Ethnic Expectations for Student Achievement opened my eyes to gender fairness and changed my classroom practices so that I could create classrooms free of bias. I am a strong proponent of training teachers to conduct their classrooms free from bias rather than turning back to single-gender classes and schools.

It is now 47 years since the Title IX regulations were implemented what still needs to be addressed?

For me it is Ongoing education, training and enforcement.

Recommendation 1:

In 2000 AB 908 added section 224.5 to the CA Education Code, Train-the-trainer grant program. The Superintendent of Public Instruction shall award grants from funds available for that purpose for the implementation of programs to train trainers in gender equity who would provide ongoing gender training to all staff members, including certificated and classified staff and maintaining a pool of knowledgeable gender equity trainers.

An educated staff will provide a more fair and equitable learning environment for all students. The provisions of AB 908 must be funded every year.

When this Title IX at 45 was produced by the National Coalition for Women and Girls in Education, available at www.ncwge.org, it was before Betsy Devos was appointed Education Secretary. As you review the full report, please keep in mind that on September 22, 2017 Devos had the Department rescind most previous sexual harassment guidance documents. The only document that she could not rescind was the 2001 Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students or Third Parties.

Those previous documents provide much needed clarification for preventing and addressing Title IX issues and are valuable tools.

The new proposed federal regulations will remove the suggested

60-day time frame to complete Title IX investigations.

It no longer would require an evidentiary hearing to allow for informal resolution, including mediation on sexual assault cases.

For institutions of higher education, the recipient's grievance procedure **MUST** provide for a live hearing where the decision-makers **MUST** permit each party to ask the other party and any witnesses all relevant questions, including those challenging credibility.

What does this mean for women and girls?

There is already a huge underreporting of sexual bullying, harassment, rape and other sex-based discrimination and this provision will pretty much guarantee that victims will not come forward.

Make no mistake, DeVos's actions amount to a blatant rollback of strong and necessary protections for student survivors of sexual assault. AAUW stands with survivors and we remain committed to protecting and defending Title IX and pursuing vigorous enforcement.

Recommendation 2: AAUW strongly supports SB 493 Introduced by Senator Hannah Beth Jackson on February 21, 2019. This comprehensive bill provides the protections for victims of sexual harassment and assault that will be needed for institutions of higher education that receive state funds. This state bill specifically provides for students to **NOT** be subjected to any form of direct, live cross-examination from the accused's side. There is a critical need for this bill to be signed into law.

Recommendation 3: It is important to review the sexual

harassment protections in Education Code for students in Kdg-12 schools to see if new legislation is needed to strengthen protections.

Every district, college and university is required to have at least one Title IX Coordinator and that person must be fully trained and supported to fulfill the legal requirements. The role of the Title IX Coordinator is complex and should be a full-time position until a district or school can achieve and maintain full compliance. Frequently, a person with a full-time position is given the extra label of Title IX.

Recommendation 4: I think it is important in California to change the name from Title IX Coordinator to the Gender Equity Coordinator to be sure that state laws and regulations are not overlooked.

Recommendation 5: All Title IX /Gender Equity coordinators must be considered as leaders and collaborators and be proactive gender equity administrators for their students and teachers. They must have the expertise, authority, and time built into their work schedule, to ensure compliance with all aspects of state and federal rules.

A quality plan to address gender fairness is to create teams of Gender Equity Coordinators with expertise in different topic areas serving under the lead coordinator.

The San Jose Branch of AAUW has a Title IX Focus Group and has been hosting Title IX Coordinators Roundtable calls. They invite all Title IX Coordinators for Santa Clara County to attend, encourages the invitation to be forwarded to other administrators. Each of the Roundtable calls has a presenter that

has expertise in Title IX, whether attorneys or practitioners.

To ensure student success in colleges and universities We must begin and continue from preschool through high school educating all students on their rights. There is a real continuum here and equity in schools must begin with the youngest of children. All students must learn to respect each person as an individual, not as a female or male and all students must be protected from discrimination and harassment.

Given ongoing discrimination at every level of education, there is a great need to get information into the hands of responsible Coordinators to assist them in working effectively. Page 92 of the full report describes how AAUW undertook a Title IX Delivery project encouraging advocates to meet with their Title IX coordinators and deliver OCR's 2015 Title IX Resource Guide. In just one year, the project resulted in over 700 meetings across 29 states.

The state of Hawaii has a single public school district and only one Title IX coordinator to oversee compliance for the entire state. AAUW national and state leaders met with the state superintendent to discuss the concerns. This represents the influence that advocates and constituents can make on decision-makers.

RECOMMENDATION 6: I strongly recommend that California legislators, along with the California Superintendent of Public Instruction step up this year and provide the leadership and funding that our students deserve in California: to provide employees with gender equity education, ongoing train-the-trainer programs for school personnel and strong enforcement that will actually make a difference for all students in California.

We can't depend on Secretary Devos to provide funding for fair enforcement and that makes it critical that California's decision makers take the leadership role for nondiscrimination in our schools.

For the first step, California legislators should propose legislation to create a new Gender Equity in Education Act, which would create an Office for Gender Equity in the CA Department of Education with sufficient funding like we had in the 1980s and 1990s to provide much needed leadership for Gender Equity.

I thank you for today's hearing and as an equity advocate for 40 years and former educator I do not want to see another generation of our students denied their rights for a fair and equitable education, free from discrimination and harassment.

As Secretary Clinton said, "Full equality for women and girls is THE great unfinished business of the 21st Century."

I take this personally and it saddens me that I may need to be working to ensure fairness for all until I take my last breath.