
HOUSE BILL 2866

State of Washington

65th Legislature

2018 Regular Session

By Representatives Pellicciotti, Senn, Appleton, Valdez, Bergquist, Jinkins, Slatter, Pollet, and Santos

Read first time 01/18/18. Referred to Committee on Higher Education.

1 AN ACT Relating to ensuring that the rights and protections
2 provided to students as of January 19, 2017, under Title IX of the
3 federal Education Amendments of 1972 are preserved; amending RCW
4 28A.640.010, 28A.195.010, 28B.50.455, and 28B.110.030; adding a new
5 section to chapter 28B.110 RCW; and creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1)(a) The legislature recognizes that on
8 June 23, 1972, President Richard Nixon signed into law Title IX of
9 the Education Amendments of 1972 to the 1964 Civil Rights Act. This
10 legislation provides that: "No person in the United States shall, on
11 the basis of sex, be excluded from participation in, be denied the
12 benefits of, or be subjected to discrimination under any education
13 program or activity receiving federal financial assistance...."

14 (b) Further ensuring equality in the state of Washington, the
15 legislature passed an amendment to the state Constitution, ratified
16 by the voters in November 1972, providing, "Equality of rights and
17 responsibilities under the law shall not be denied or abridged on
18 account of sex." In 1975, Washington continued to be at the forefront
19 of this issue by adopting legislation that established its own
20 statutory version of the federal Title IX law that prohibited

1 "inequality in the educational opportunities afforded women and girls
2 at all levels of the public schools in Washington state."

3 (c) The legislature also recognizes that there are numerous
4 federal regulations, policies, and guidelines issued to effectuate
5 Title IX. Some of those regulations, policies, and guidelines
6 designed to protect students have been subject to changes based on
7 politics and those changes decrease the rights and protections for
8 students and weaken the policies underlying Title IX. The legislature
9 also recognizes that it is difficult to anticipate what changes might
10 be made that will reduce or weaken the rights and protections
11 previously established for students.

12 (2) The legislature therefore intends to ensure that the
13 regulations, policies, and guidelines issued as of December 31, 2016,
14 under Title IX are preserved for Washington students.

15 **Sec. 2.** RCW 28A.640.010 and 1975 1st ex.s. c 226 s 1 are each
16 amended to read as follows:

17 (1) Inequality in the educational opportunities afforded women
18 and girls at all levels of the public schools in Washington state is
19 a breach of Article XXXI, section 1, Amendment 61, of the Washington
20 state Constitution, requiring equal treatment of all citizens
21 regardless of sex. This violation of rights has had a deleterious
22 effect on the individuals affected and on society. Recognizing the
23 benefit to our state and nation of equal educational opportunities
24 for all students, discrimination on the basis of sex for any student
25 in grades K-12 of the Washington public schools is prohibited.

26 (2)(a) The office of the superintendent of public instruction
27 shall ensure that all the rights and protections provided under Title
28 IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.)
29 and any federal rules and guidance in effect as of January 19, 2017,
30 implementing Title IX, are preserved for students in grades K-12 of
31 the Washington public schools.

32 (b) No later than July 1, 2018, the office of the superintendent
33 of public instruction shall convene a work group to examine the Title
34 IX federal rules and guidance to determine the most efficient and
35 effective method of ensuring that the rights and protections under
36 Title IX in effect as of January 19, 2017, are granted to students,
37 consistent with state law. The work group must focus their evaluation
38 on those federal rules and guidance not already addressed under state
39 law.

1 (c) No later than August 1, 2019, the office of the
2 superintendent of public instruction shall issue guidelines and adopt
3 rules, where appropriate and consistent with the work group's
4 evaluation, incorporating the applicable rights and protections
5 preserved for students under (a) of this subsection.

6 **Sec. 3.** RCW 28A.195.010 and 2009 c 548 s 303 are each amended to
7 read as follows:

8 The legislature hereby recognizes that private schools should be
9 subject only to those minimum state controls necessary to insure the
10 health and safety of all the students in the state and to insure a
11 sufficient basic education to meet usual graduation requirements. The
12 state, any agency or official thereof, shall not restrict or dictate
13 any specific educational or other programs for private schools except
14 as hereinafter in this section provided.

15 Principals of private schools or superintendents of private
16 school districts shall file each year with the state superintendent
17 of public instruction a statement certifying that the minimum
18 requirements hereinafter set forth are being met, noting any
19 deviations. After review of the statement, the state superintendent
20 will notify schools or school districts of those deviations which
21 must be corrected. In case of major deviations, the school or school
22 district may request and the state board of education may grant
23 provisional status for one year in order that the school or school
24 district may take action to meet the requirements. The state board of
25 education shall not require private school students to meet the
26 student learning goals, obtain a certificate of academic achievement,
27 or a certificate of individual achievement to graduate from high
28 school, to master the essential academic learning requirements, or to
29 be assessed pursuant to RCW 28A.655.061. However, private schools may
30 choose, on a voluntary basis, to have their students master these
31 essential academic learning requirements, take the assessments, and
32 obtain a certificate of academic achievement or a certificate of
33 individual achievement. Minimum requirements shall be as follows:

34 (1) The minimum school year for instructional purposes shall
35 consist of no less than one hundred eighty school days or the
36 equivalent in annual minimum instructional hour offerings, with a
37 school-wide annual average total instructional hour offering of one
38 thousand hours for students enrolled in grades one through twelve,

1 and at least four hundred fifty hours for students enrolled in
2 kindergarten.

3 (2) The school day shall be the same as defined in RCW
4 28A.150.203.

5 (3) All classroom teachers shall hold appropriate Washington
6 state certification except as follows:

7 (a) Teachers for religious courses or courses for which no
8 counterpart exists in public schools shall not be required to obtain
9 a state certificate to teach those courses.

10 (b) In exceptional cases, people of unusual competence but
11 without certification may teach students so long as a certified
12 person exercises general supervision. Annual written statements shall
13 be submitted to the office of the superintendent of public
14 instruction reporting and explaining such circumstances.

15 (4) An approved private school may operate an extension program
16 for parents, guardians, or persons having legal custody of a child to
17 teach children in their custody. The extension program shall require
18 at a minimum that:

19 (a) The parent, guardian, or custodian be under the supervision
20 of an employee of the approved private school who is certified under
21 chapter 28A.410 RCW;

22 (b) The planning by the certified person and the parent,
23 guardian, or person having legal custody include objectives
24 consistent with this subsection and subsections (1), (2), (5), (6),
25 and (7) of this section;

26 (c) The certified person spend a minimum average each month of
27 one contact hour per week with each student under his or her
28 supervision who is enrolled in the approved private school extension
29 program;

30 (d) Each student's progress be evaluated by the certified person;
31 and

32 (e) The certified employee shall not supervise more than thirty
33 students enrolled in the approved private school's extension program.

34 (5) Appropriate measures shall be taken to safeguard all
35 permanent records against loss or damage.

36 (6) The physical facilities of the school or district shall be
37 adequate to meet the program offered by the school or district:
38 PROVIDED, That each school building shall meet reasonable health and
39 fire safety requirements. A residential dwelling of the parent,
40 guardian, or custodian shall be deemed to be an adequate physical

1 facility when a parent, guardian, or person having legal custody is
2 instructing his or her child under subsection (4) of this section.

3 (7) Private school curriculum shall include instruction of the
4 basic skills of occupational education, science, mathematics,
5 language, social studies, history, health, reading, writing,
6 spelling, and the development of appreciation of art and music, all
7 in sufficient units for meeting state board of education graduation
8 requirements.

9 (8) Each school or school district shall be required to maintain
10 up-to-date policy statements related to the administration and
11 operation of the school or school district.

12 (9) If the school or school district is required to comply with
13 Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et
14 seq.) as of the effective date of this section, then the school or
15 school district shall ensure its students have all the same rights
16 and protections provided to them under Title IX and any federal rules
17 and guidance that were in effect as of January 19, 2017, implementing
18 Title IX. Noncompliance with this subsection will be deemed a major
19 deviation from a school or school district's duty to comply with this
20 section.

21 (10) All decisions of policy, philosophy, selection of books,
22 teaching material, curriculum, except as in subsection (7) of this
23 section provided, school rules and administration, or other matters
24 not specifically referred to in this section, shall be the
25 responsibility of the administration and administrators of the
26 particular private school involved.

27 **Sec. 4.** RCW 28B.50.455 and 2015 c 55 s 227 are each amended to
28 read as follows:

29 (1) Each community and technical college shall comply with
30 relevant federal requirements for implementing section 504 of the
31 rehabilitation act of 1973, and as thereafter amended, Title VI of
32 the civil rights act of 1964, and as thereafter amended, and Title IX
33 of education amendments of 1972, and as thereafter amended.

34 (2)(a) Students in the state system of community and technical
35 colleges have all the same rights and protections provided to them
36 under Title IX of the Education Amendments of 1972 (20 U.S.C. Sec.
37 1681 et seq.) and any federal rules and guidance that were in effect
38 as of January 19, 2017, implementing Title IX.

1 (b) No later than August 1, 2019, the office of the college board
2 shall adopt rules incorporating the rights and protections provided
3 to students under Title IX of the Education Amendments of 1972 (20
4 U.S.C. Sec. 1681 et seq.) and any federal rules and guidance in
5 effect as of January 19, 2017, implementing Title IX, that are not
6 already addressed under state law.

7 **NEW SECTION. Sec. 5.** A new section is added to chapter 28B.110
8 RCW to read as follows:

9 (1) Students of institutions of higher education have all the
10 same rights and protections provided to them under Title IX of the
11 Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.) and any
12 federal rules and guidance that were in effect as of January 19,
13 2017, implementing Title IX.

14 (2) To be an eligible institution for the purposes of state
15 financial aid programs under chapters 28B.92 and 28B.12 RCW, a
16 private postsecondary institution of higher education shall ensure
17 that its students have all the same rights and protections provided
18 to them under Title IX of the Education Amendments of 1972 (20 U.S.C.
19 Sec. 1681 et seq.) and any federal rules and guidance that were in
20 effect as of January 19, 2017, implementing Title IX.

21 **Sec. 6.** RCW 28B.110.030 and 2015 c 92 s 6 are each amended to
22 read as follows:

23 In consultation with institutions of higher education, the
24 student achievement council shall develop rules and guidelines to
25 eliminate possible gender discrimination to students, including
26 sexual harassment, at institutions of higher education as defined in
27 RCW 28B.10.016. The rules and guidelines shall include but not be
28 limited to access to academic programs, student employment,
29 counseling and guidance services, financial aid, recreational
30 activities including club sports, and intercollegiate athletics.

31 No later than August 1, 2019, and in consultation with the
32 institutions of higher education, the student achievement council
33 shall adopt rules incorporating the rights and protections provided
34 to students under Title IX of the Education Amendments of 1972 (20
35 U.S.C. Sec. 1681 et seq.) and any federal rules and guidance in
36 effect as of January 19, 2017, implementing Title IX, that are not
37 already addressed under state law.

1 (1) With respect to higher education student employment, all
2 institutions shall be required to:

3 (a) Make no differentiation in pay scales on the basis of gender;

4 (b) Assign duties without regard to gender except where there is
5 a bona fide occupational qualification as approved by the Washington
6 human rights commission;

7 (c) Provide the same opportunities for advancement to males and
8 females; and

9 (d) Make no difference in the conditions of employment on the
10 basis of gender in areas including, but not limited to, hiring
11 practices, leaves of absence, and hours of employment.

12 (2) With respect to admission standards, admissions to academic
13 programs shall be made without regard to gender.

14 (3) Counseling and guidance services for students shall be made
15 available to all students without regard to gender. All academic and
16 counseling personnel shall be required to stress access to all career
17 and vocational opportunities to students without regard to gender.

18 (4) All academic programs shall be available to students without
19 regard to gender.

20 (5) With respect to recreational activities, recreational
21 activities shall be offered to meet the interests of students.
22 Institutions which provide the following shall do so with no
23 disparities based on gender: Equipment and supplies; medical care;
24 services and insurance; transportation and per diem allowances;
25 opportunities to receive coaching and instruction; laundry services;
26 assignment of game officials; opportunities for competition,
27 publicity, and awards; and scheduling of games and practice times,
28 including use of courts, gyms, and pools. Each institution which
29 provides showers, toilets, lockers, or training room facilities for
30 recreational purposes shall provide comparable facilities for both
31 males and females.

32 (6) With respect to financial aid, financial aid shall be
33 equitably awarded by type of aid, with no disparities based on
34 gender.

35 (7) With respect to intercollegiate athletics, institutions that
36 provide the following shall do so with no disparities based on
37 gender:

38 (a) Benefits and services including, but not limited to,
39 equipment and supplies; medical services; services and insurance;
40 transportation and per diem allowances; opportunities to receive

1 coaching and instruction; scholarships and other forms of financial
2 aid; conditioning programs; laundry services; assignment of game
3 officials; opportunities for competition, publicity, and awards; and
4 scheduling of games and practice times, including use of courts,
5 gyms, and pools. Each institution which provides showers, toilets,
6 lockers, or training room facilities for athletic purposes shall
7 provide comparable facilities for both males and females.

8 (b) Opportunities to participate in intercollegiate athletics.
9 Institutions shall provide equitable opportunities to male and female
10 students.

11 (c) Male and female coaches and administrators. Institutions
12 shall attempt to provide some coaches and administrators of each
13 gender to act as role models for male and female athletes.

14 (8) Each institution shall develop and distribute policies and
15 procedures for handling complaints of sexual harassment and sexual
16 violence. Institutional sexual violence policies should include, but
17 are not limited to, information about the institution's Title IX
18 compliance officer or other individuals at the institution
19 responsible for handling sexual violence violations and potential
20 criminal conduct. Institutions shall annually distribute these
21 policies and procedures in writing or electronically to all students
22 and employees.

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