



March 2021

AB 34 – THE SAFE PLACE TO LEARN ACT

In September 2019, the California State Legislature passed Assembly Bill 34, The Safe Place to Learn Act. The goal of this bill was to make bullying and harassment prevention information readily accessible to parents or guardians and students. To achieve this goal, The Safe Place to Learn Act requires that certain policies and information be posted on all local education agency (“LEA”) existing websites. The Safe Place to Learn Act was codified in Education Code section 234.6. This section required compliance beginning with the 2020-2021 school year.

As districts have been consumed with dealing with the COVID-19 pandemic and efforts to return students to school, it is possible that these requirements have not yet been met. This client update is to remind districts of these requirements. The description of the policies described below are not intended to be relied upon in developing any of these policies, but only to serve as a brief description of the requirements of Section 234.6. For further information as to the requirements of each policy, please see the cited Education Code sections or contact Schools Legal Service for assistance.

The following information is to be “readily accessible in a prominent location” on each LEA’s existing website in a “manner that is easily accessible” to students and parents or guardians:

1. Policy on Pupil Suicide Prevention in Grades 7-12

Education Code section 215 required all LEAs to adopt a suicide prevention policy prior to the beginning of the 2017-2018 school year.

2. Policy on Pupil Suicide Prevention in Grades K-6

Education Code section 215 requires this policy to be age appropriate and requires a suicide prevention policy to be in place before the beginning of the current academic year (2020-2021). If a district has not yet adopted this policy, it is advisable to do so as soon as possible and in compliance with Education Code section 215.

In regard to adopting a suicidal prevention policy for grades K- 6, Section 215 requires that the policy be adopted in consultation with school and community stakeholders, the county mental health plan, school employed mental health professionals, and suicide prevention experts. The policy, as well as the policy for grades 7-12, shall specifically address the needs of high risk groups including, but not limited to, youth bereaved by suicide, youth with disabilities, mental illness, substance use disorders, homeless youth, youth in out-of-home settings, such as foster care, and lesbian, gay, bisexual, transgender, or questioning youth.

3. The Definition of Discrimination and Harassment Based on Sex as Described in Section 230

Section 230 prohibits discrimination and harassment based on sex in the denial of benefits of any academic, extracurricular, research, occupational training, or other program or activity. This Section specifically covers athletics and is required to include all athletic rights set forth in Education Code section 221.8.¹

¹ Based on Title IX, Section 221.8 requires the following:

- (a) You have the right to fair and equitable treatment and you shall not be discriminated against based on your sex.
- (b) You have the right to be provided with an equitable opportunity to participate in all academic extracurricular activities, including athletics.
- (c) You have the right to inquire of the athletic director of your school as to the athletic opportunities offered by the school.
- (d) You have the right to apply for athletic scholarships.
- (e) You have the right to receive equitable treatment and benefits in the provision of all of the following:
 - (1) Equipment and supplies.
 - (2) Scheduling of games and practices.
 - (3) Transportation and daily allowances.
 - (4) Access to tutoring.
 - (5) Coaching.
 - (6) Locker rooms.
 - (7) Practice and competitive facilities.
 - (8) Medical and training facilities and services.
 - (9) Publicity.
- (f) You have the right to have access to a gender equity coordinator to answer questions regarding gender equity laws.
- (g) You have the right to contact the State Department of Education and the California Interscholastic Federation to access information on gender equity laws.
- (h) You have the right to file a confidential discrimination complaint with the United States Office of Civil Rights or the State Department of Education if you believe you have been discriminated against or if you believe you have received unequal treatment on the basis of your sex.
- (i) You have the right to pursue civil remedies if you have been discriminated against.
- (j) You have the right to be protected against retaliation if you file a discrimination complaint.

4. Title IX information

The Education Code required certain Title IX information to be posted on a district's website by July 1, 2017. Additionally, the new Title IX regulations, effective August 20, 2020, require a district to post all Title IX training materials on their website.² This information shall include the name and contact information of the Title IX coordinator, the rights and responsibilities of the district, and a description of the complaint process. As to the rights of pupils, the district shall include links to the California Department of Education, Office of Equal Opportunity, and the U.S. Department of Education, Office for Civil Rights ("OCR"). As to the description of the complaint process, the district shall include an explanation of the statute of limitations and how to file a complaint beyond the statute of limitations, how a complaint will be investigated, and a link to OCR's complaint form, telephone number, and e-mail address.³

5. A Link to the Athletes' Bill of Rights on the District's Website

This link is to be connected to the district's Athletes' Bill of Rights pursuant to requirements of Title IX.⁴ The Athletes' Bill of Rights must be in English and Spanish and at a reading level that high school students can comprehend.

6. The LEA's Written Policy on Sexual Harassment, as It Pertains to Pupils, Pursuant to Education Code section 231.5

Section 231.5 requires a district to have a written policy on sexual harassment, regardless of whether or not the actions meet the Title IX definition of sexual harassment. In addition to being published on the district's website, the policy must be displayed in a "prominent location" at its school site. Prominent location is defined as "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."

7. The LEA's Policy, *if It Exists*, on Preventing and Responding to Hate Violence as Described in Education Code section 233

Section 233 provides several guidelines for the State Board of Education to establish regarding the prevention of hate violence. The guidelines include training for teachers, administration and staff, guidelines to develop non-discriminatory instructional and counseling methods, and instructional curricula that promotes understanding, awareness, and appreciation for the contribution of people with diverse backgrounds.⁵ These guidelines are to be created on the condition that they do not create a state mandate of increase costs to the LEA of state.

² 34 C.F.R. § 106.45(b)(10)(D)

³ Educ. Code § 221.61

⁴ Educ. Code § 221.6

⁵ See Educ. Code § 233 for complete list of guidelines

Note that this is the only policy posting that is required only if the policy exists, whereas the remainder of the policies described in this client update are required.

8. The Local Educational Agency’s Anti-discrimination, Anti-harassment, Anti-intimidation, and Anti-bullying Policies

These policies focus on prohibiting discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics. The statute draws from several different statutes to define what the protected characteristics are. First is the Penal Code’s definition of hate crimes. The protected characteristics of the victim are: disability, gender, nationality, race orientation, religion, sexual orientation, and association with a person or group with one or more of these actual or perceive characteristics.⁶ This includes immigration status.⁷ Second is the Education Code’s defined protected classes: disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, and sexual orientation.⁸

9. The Local Education Agency’s Anti-cyberbullying Procedures

The only guidance given on this topic is that the local educational agency shall adopt a procedure for preventing acts of bullying, including cyberbullying on or before December 31, 2019.⁹ Beyond adopting a policy, there is no further guidance as to what this policy should include in this section.

10. A Section on Social Media Bullying

This section is to include references to possible forums for social media bullying: (a) internet websites with free registration and ease of registration; (b) internet websites offering peer-to-peer instant messaging; (c) internet websites offering comment forums or sections; and (d) internet websites offering image of video posting platforms.

11. A Link to Statewide Resources, Including Community-based Organizations

The State Superintendent will provide on the department’s website, and to each school district, a list of statewide resources, including community-based organizations, and that information will also be available on the superintendent’s website.¹⁰ The LEA’s website should also contain information from the superintendent’s website listing the statewide resources for youth who have been affected by gangs, gun violence, and psychological trauma caused by violence at home, at school, and in the community.¹¹

⁶ Penal Code § 422.55

⁷ Educ. Code § 234.1(a)

⁸ Educ. Code § 220

⁹ Educ. Code § 234.4(a)

¹⁰ Educ. Code § 234.5(a)

¹¹ Educ. Code § 234.5(b)

12. Any Additional Information a Local Educational Agency Deems Important for Preventing Bullying and Harassment

This is a “catch all” with no additional mandated requirements. If the district has any other anti-discrimination or bullying policies that are not included in any of the above descriptions, post them to your website pursuant to this section.

Should you have any questions about the foregoing information, please contact our office.

- Melissa D. Allen

MDA/crj

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