
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No:	AB 543	Hearing Date:	June 5, 2019
Author:	Smith		
Version:	April 2, 2019		
Urgency:	No	Fiscal:	Yes
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Subject: Education: sexual harassment: written policy: posters.

SUMMARY

This bill requires public schools serving grades 9-12 to create and prominently display a poster that notifies its pupils of their sexual harassment policy. This bill extends the existing requirement for educational institutions to provide a written copy of its sexual harassment policy to require that *continuing* pupils also receive this information (in addition to new students).

BACKGROUND

Existing law:

- 1) Prohibits exclusion from participation in, denial of the benefits of, or subjection to discrimination under any education program or activity receiving federal financial assistance, on the basis of sex, as provided under Title IX of the Education Amendments of 1972. (United States Code, Title 20 § 1681 et seq.)
- 2) Declares that it is the policy of this state to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic, equal rights and opportunities in the educational institutions of the state. Declares further that all students have the right to participate fully in the educational process, free from discrimination and harassment; that 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; and that 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. (Education Code § 200-201.)
- 3) Defines sexual harassment as 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. (EC § 212.5)
- 4) Establishes the Sex Equity in Education Act, which states the policy of the State of California that all persons, regardless of their sex, should enjoy freedom from discrimination of any kind in the educational institutions of the state. requires educational institutions to:
- a) Have a written policy on sexual harassment that includes information on how to find the institution's rules and procedures for reporting charges of sexual harassment and pursuing available remedies.
 - b) Display a copy of the sexual harassment policy in a prominent location in the main administrative building or other area where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.
 - c) Provide a copy of the sexual harassment policy during new student orientation programs conducted at the beginning of each quarter, semester, or summer session, as applicable.
 - d) Provide a copy of the sexual harassment policy to all faculty, administrative staff, and 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.
 - e) Place a copy of the sexual harassment policy in any of the educational institution's publications relating to the rules, regulations, procedures, and standards of conduct for the institution. (EC § 231.5)
- 5) Specifies that pupils may be suspended or recommended for expulsion if the superintendent or principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment. (EC § 48900.2)
- 6) Requires the California Department of Education to assess whether local educational agencies have publicized their antidiscrimination, anti-harassment, anti-intimidation, and anti-bullying policies. (EC § 234.1)

ANALYSIS

This bill:

- 1) Requires educational institutions to provide its written policy on sexual harassment as part of any orientation program conducted for continuing pupils at the beginning of each quarter, semester, or summer session, as applicable.
- 2) Requires public schools and county offices of education (including charter schools) serving any of grades 9-12 to create a poster that notifies pupils of the institution's sexual harassment policy.
- 3) Requires the language of the poster to be age-appropriate and culturally-relevant
- 4) Authorizes schoolsites to partner with local, state, or federal agencies, or nonprofit organizations, for the purposes of poster design and content, and for the purposes of ensuring that the language is age-appropriate and culturally-relevant.
- 5) Requires the poster to be displayed in English and any primary language spoken by 15 percent or more of the pupils enrolled at the school site.
- 6) Requires that the poster shall be no smaller than 8.5 by 11 inches and use at least 12-point font.
- 7) Requires the poster to display, at a minimum, all of the following:
 - a) The rules and procedures for reporting a charge of sexual harassment.
 - b) The name, phone number, and email address of an appropriate school site officer to contact to report a charge of sexual harassment.
 - c) The rights of the reporting pupil, the victim, and the accused, and the responsibilities of the school site in accordance with the applicable written policy on sexual harassment.
- 8) Requires the poster to be prominently and conspicuously displayed in each school site bathroom, locker, room, and in public areas at the school site that are accessible to and commonly frequented by pupils, including, but not limited to classrooms, classroom hallways, gymnasiums, auditoriums, and cafeterias.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Our students need to feel safe and respected in order to be in the best position to learn and thrive. It is important that students are given the vocabulary to be able to recognize and talk about sexual harassment. AB 543 will ensure that students have access to information and resources, educate students on what is and isn't appropriate, and will destigmatize asking for help. When we talk about addressing the cultural shift needed by the Me Too movement, we need to begin early with our youth."
- 2) ***Technical amendments. Staff recommends that the bill be amended*** to replace the term "victim" with "complainant" and the term "accused" with "respondent." These terms reflect the preferred terminology for statutes relating

to sexual harassment. Secondly, these terms do not presume guilt or innocence.

- 3) ***Underreporting of sexual harassment on school sites.*** According to the Assembly Education analysis for this bill, a 2018 report published by the American Association of University Women (AAUW) found that girls in junior high and high school frequently experience sexual harassment, sexual abuse, sexual assault, and other behaviors that constitute sex discrimination under federal law (Title IX) and state law (Sex Equity in Education Act). The report found that while these experiences hurt pupils' ability to focus on their academic goals and can diminish their equal access to educational opportunities, educational institutions frequently underreport the actual levels of sexual harassment or assault that is occurring on their school sites.

AAUW analyzed 2015-16 data from the Civil Rights Data Collection from 96,000 public and public charter preschool through 12th grade educational institutions, including magnet schools, special education schools, alternative schools, and juvenile justice facilities. AAUW research showed that nearly half of students in grades 7-12 reported experiencing some form of sexual harassment, with 87 percent of those students saying the harassment had a negative impact on them. Yet nearly 80 percent of the 48,000 public schools with students in grades 7 through 12 disclosed *zero* reported allegations of harassment or bullying on the basis of sex at their school sites.

Such underreporting may be due to pupils' lack of information on how to file a complaint, fear of reprisal, uncertainty about the process, procedural gaps in how institutions respond to incidents, or a combination of factors.

- 4) ***Informational Hearing.*** On January 16, 2019, the Senate and Education committees hosted an informational hearing featuring the California Association of Student Councils (CASC). In the hearing, the CASC Student Advisory Board on Legislation in Education proposed a bill that would require California schools to publicize their sexual harassment policy and reporting protocol more prominently on school sites. This bill is a result of that presentation.

SUPPORT

American Association of University Women – California
California Teachers Association

OPPOSITION

None received

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