

Introduced by Senator MelendezJanuary 25, 2021

An act to amend Sections 200, 210.2, 220, and 234.1 of the Education Code, relating to educational equity.

LEGISLATIVE COUNSEL'S DIGEST

SB 249, as introduced, Melendez. Educational equity: political affiliation.

Existing law states the policy of the State of California 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 specified characteristic, equal rights and opportunities in the educational institutions of the state. Existing law prohibits discrimination on the basis of those specific characteristics 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. Existing law requires the State Department of Education to assess whether local educational agencies have taken certain actions related to educational equity, including adopting a policy that prohibits, and adopting a process for receiving and investigating complaints of, discrimination, harassment, intimidation, and bullying based on those actual or perceived specified characteristics.

This bill would include political affiliation for purposes of those provisions. To the extent the bill would impose additional duties on local educational agencies relating to the adoption of policies and the investigation of complaints described above, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

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

- 1 SECTION 1. Section 200 of the Education Code is amended
- 2 to read:
- 3 200. It is the policy of the State of California to afford all
- 4 persons in public schools, regardless of their disability, gender,
- 5 gender identity, gender expression, nationality, *political affiliation*,
- 6 race or ethnicity, religion, sexual orientation, or any other
- 7 characteristic that is contained in the definition of hate crimes set
- 8 forth in Section 422.55 of the Penal Code, including immigration
- 9 status, ~~equal rights~~, *rights* and opportunities in the educational
- 10 institutions of the state. The purpose of this chapter is to prohibit
- 11 acts that are contrary to that policy and to provide remedies
- 12 therefor.
- 13 SEC. 2. Section 210.2 of the Education Code is amended to
- 14 read:
- 15 210.2. “Disability, gender, gender identity, gender expression,
- 16 nationality, *political affiliation*, race or ethnicity, religion, sexual
- 17 orientation, or any other characteristic that is contained in the
- 18 definition of hate crimes set forth in Section 422.55 of the Penal
- 19 Code” includes a perception that the person has any of those
- 20 characteristics or that the person is associated with a person who
- 21 has, or is perceived to have, any of those characteristics.
- 22 SEC. 3. Section 220 of the Education Code is amended to read:
- 23 220. No person shall be subjected to discrimination on the basis
- 24 of disability, gender, gender identity, gender expression,
- 25 nationality, *political affiliation*, race or ethnicity, religion, sexual
- 26 orientation, or any other characteristic that is contained in the
- 27 definition of hate crimes set forth in Section 422.55 of the Penal
- 28 Code, including immigration status, in any program or activity

1 conducted by an educational institution that receives, or benefits
2 from, state financial assistance, or enrolls pupils who receive state
3 student financial aid.

4 SEC. 4. Section 234.1 of the Education Code is amended to
5 read:

6 234.1. The department, pursuant to subdivision (b) of Section
7 64001, shall monitor adherence to the requirements of Chapter 5.3
8 (commencing with Section 4900) of Division 1 of Title 5 of the
9 California Code of Regulations and this chapter as part of its
10 regular monitoring and review of local educational agencies,
11 commonly known as the Categorical Program Monitoring process.
12 The department shall assess whether local educational agencies
13 have done all of the following:

14 (a) Adopted a policy that prohibits discrimination, harassment,
15 intimidation, and bullying based on the actual or perceived
16 characteristics set forth in Section 422.55 of the Penal Code,
17 including immigration status, and Section 220 of this code, and
18 disability, gender, gender identity, gender expression, nationality,
19 *political affiliation*, race or ethnicity, religion, sexual orientation,
20 or association with a person or group with one or more of these
21 actual or perceived characteristics. The policy shall include a
22 statement that the policy applies to all acts related to school activity
23 or school attendance occurring within a school under the
24 jurisdiction of the superintendent of the school district.

25 (b) Adopted a process for receiving and investigating complaints
26 of discrimination, harassment, intimidation, and bullying based
27 on any of the actual or perceived characteristics set forth in Section
28 422.55 of the Penal Code, including immigration status, and
29 Section 220 of this code, and disability, gender, gender identity,
30 gender expression, nationality, *political affiliation*, race or
31 ethnicity, religion, sexual orientation, or association with a person
32 or group with one or more of these actual or perceived
33 characteristics. The complaint process shall include, but not be
34 limited to, all of the following:

35 (1) A requirement that, if school personnel witness an act of
36 discrimination, harassment, intimidation, or bullying, they shall
37 take immediate steps to intervene when safe to do so.

38 (2) A timeline to investigate and resolve complaints of
39 discrimination, harassment, intimidation, or bullying that shall be
40 followed by all schools under the jurisdiction of the school district.

1 (3) An appeal process afforded to the complainant in the case
2 of a disagreement with the resolution of a complaint filed pursuant
3 to this section.

4 (4) All forms developed pursuant to this process shall be
5 translated pursuant to Section 48985.

6 (c) Publicized antidiscrimination, antiharassment,
7 anti-intimidation, and antibullying policies adopted pursuant to
8 subdivision (a), including information about the manner in which
9 to file a complaint, to pupils, parents, employees, agents of the
10 governing board, and the general public. The information shall be
11 translated pursuant to Section 48985.

12 (d) (1) Provided, incident to the publicizing described in
13 subdivision (c), to certificated schoolsite employees who serve
14 pupils in any of grades 7 to 12, inclusive, who are employed by
15 the local educational agency, information on existing schoolsite
16 and community resources related to the support of lesbian, gay,
17 bisexual, transgender, and questioning (LGBTQ) pupils, or related
18 to the support of pupils who may face bias or bullying on the basis
19 of religious affiliation, or perceived religious affiliation.

20 (2) As used in this subdivision, both of the following apply:

21 (A) Schoolsite resources may include, but are not limited to,
22 peer support or affinity clubs and organizations, safe spaces for
23 LGBTQ or other at-risk pupils, counseling services, staff who
24 have received antibias or other training aimed at supporting these
25 pupils or who serve as designated support to these pupils, health
26 and other curriculum materials that are inclusive of, and relevant
27 to, these pupils, online training developed pursuant to Section
28 32283.5, and other policies adopted pursuant to this article,
29 including related complaint procedures.

30 (B) Community resources may include, but are not limited to,
31 community-based organizations that provide support to LGBTQ
32 or other at-risk pupils and their families, and physical and
33 mental health providers with experience or training in treating or
34 supporting these pupils.

35 (e) Posted the policy established pursuant to subdivision (a) in
36 all schools and offices, including staff lounges and pupil
37 government meeting rooms.

38 (f) Maintained documentation of complaints and their resolution
39 for a minimum of one review cycle.

1 (g) Ensured that complainants are protected from retaliation
2 and that the identity of a complainant alleging discrimination,
3 harassment, intimidation, or bullying remains confidential, as
4 appropriate.

5 (h) Identified a responsible local educational agency officer for
6 ensuring school district or county office of education compliance
7 with the requirements of Chapter 5.3 (commencing with Section
8 4900) of Division 1 of Title 5 of the California Code of Regulations
9 and this chapter.

10 (i) Nothing in this section shall be construed to require school
11 employees to engage with religious institutions in the course of
12 identifying community support resources pursuant to this section.

13 SEC. 5. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.