



# CALIFORNIA WOMEN

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## The Second Wave: Shaping State "Title IX" Laws

### The California Case Study

by  
Phyllis Cheng  
Commissioner

A dozen years of hard-won progress for women and girls have passed since the enactment of Title IX of the 1972 Education Amendments. However, the Supreme Court decision in *Grove City v. Bell* recently threatened the scope of Title IX coverage, interpreting the law to protect only those programs and activities receiving direct federal financial assistance. The *Grove City* lesson makes it abundantly clear to sex equity advocates that they must take a new direction to enact state "Title IX" laws which not only parallel but improve upon the national law.

California's Sex Equity in Education Act is an example of a complex state "Title IX" statute introduced in a fiscally conservative state, where there are many competing programs and where there are already many disparate sex discrimination codes on the books.

The impetus for initiating the California Sex Equity in Education Act began when I visited Alaska in 1981. Alaska's state "Title IX" law had just been enacted and regulations were in the process of being implemented. Upon returning to California, I began researching the state's education, administrative, government and labor codes. Efforts were also made to contact various national advocacy organizations and other state education agencies in an effort to discover optimal models of state "Title IX" laws.

Within a few weeks, it became evident that while California had over 30 disparate sex discrimination codes on the books, there was no broad prohibition of sex discrimination equivalent to the federal Title IX law.

Armed with this information, I asked the Los Angeles NOW Education Committee and later California NOW to become the chief organizational sponsor of a California "Title IX" bill.

#### Substance of Bill

NOW, legislative authors and I drafted the initial version of the California "Title IX" bill, Assembly Bill 3133, which was later revised five times. A.B. 3133 was designed to parallel the federal Title IX law in the State of California. The final bill proposed to affect educational institutions, not just programs and activities, in California which receive state financial assistance. It proposed to prohibit discriminatory participation in programs and activities, financial assistance, athletics, employment and rules regarding pregnancy and related conditions.

A.B. 3133 also required the use of instructional materials which provide a balanced view of women and men, a requirement consistent with a California law regarding the adoption of instructional materials. The bill also required the State Department of Education, the Chancellor of the California Community Colleges and the Trustees of the California State Universities to issue regulations regarding the statute.

In so far as the Regents of the University of California are independent of the State government, A.B. 3133 permitted that educational institution to issue regulations upon a resolution of its Regents.

Since the State of California already had some 30 sex discrimination laws on the books, A.B. 3133 proposed to rely on existing compliance and enforcement measures to assure proper implementation. In addition, the bill required elementary and secondary educational institutions and community colleges to submit an assurance of compliance form reporting compliance with this and 30 other statutes prior to receiving state financial assistance. The bill also

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## Title IX: It's still the law

Since the U.S. Supreme Court's ruling on Title IX in the *Grove City College v. Bell* case, Project SEE has received many inquiries concerning the impact of the decision on elementary and secondary school programs. The justices ruled that Title IX, which bars sex bias in federally aided education programs, is enforceable only in the specific program receiving federal aid.

According to the U.S. Office for Civil Rights (OCR), the agency responsible for investigating complaints and enforcing Title IX, the impact on elementary and secondary school programs may be minimal. OCR has stated that at the elementary and secondary school level, OCR has broad jurisdiction under the Chapter 2 block grant and impact aid law. The presumption is that all of a local education agency's (LEA) programs and activities are subject to OCR's jurisdiction.

That interpretation of the Supreme Court's decision should be welcomed by all district personnel because educational equity still does not exist in many schools. Title IX is one way to achieve educational equity for all students. Title IX serves as a reminder of the many ways that equity can be denied—on the basis of race; national origin; religion; cultural identity; sex; mental, emotional, or physical handicap; and social class—and assists in ensuring that the needs of all students are met.

Title IX requires that each educational agency take the following steps to ensure educational equity:

1. Notify students, employees, parents of elementary and secondary students, applicants for admission and employment, admission and recruitment representatives, and groups holding collective bargaining or professional agreements with the institution or agency of the policy of nondiscrimination on the basis of sex.
2. Designate an employee as the person responsible for coordinating and monitoring activities necessary for achieving compliance with Title IX.
3. Develop and publish student and employee grievance procedures for the handling of complaints that allege violations of Title IX.
4. Conduct a self-evaluation. The Observation / Commentary / Visitation (OCV) is a popular tool for school personnel to use to evaluate and improve Title IX implementation within a district. During an OCV, trained consultants, at the request of the district, make observations as to Title IX and educational equity, evaluate the information, and provide a follow-up report of the observations. Once the report has been received, school districts can develop a comprehensive, immediate, and long-term action plan; identify resources; and implement the plan.
5. Maintain documentation of activities related to achieving compliance with Title IX. This documentation should be helpful when preparing assurances of compliance for submission with all applications for federal funds.