

CLIENT NEWS BRIEF

State Monitoring of Title IX Compliance is Beginning

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The California Department of Education recently issued the 2015-2016 Education Equity program instrument (Guidance), which is used to monitor a local educational agency's (LEA) compliance with laws on equity in the treatment of students. Of particular note, the Guidance identifies a new Title IX reporting requirement that was enacted by Senate Bill (SB) 1349 in 2014.

SB 1349 added section 221.9 to the Education Code, which requires that beginning with the 2015-2016 school year school sites, including charter schools, to publish: (1) total school enrollment, classified by gender; (2) total number of students who participate in athletics, classified by gender; and (3) total number of school athletic teams, classified by gender, sport, and competition level. This information must be posted to the school's website. If the school does not have a website, the information must be listed on the District's website separately for each individual school.

Although the first posting is not required until the end of the year on June 30, 2016, the law goes into effect in the current school year. Thus, since the law requires the posting to reflect the total number of players on a team roster *"on the official first day of competition,"* and that first day of competition would have been during the 2015-16 school year, *each school site should begin compiling this information now.* Posting should then occur by June 30, 2016, reflecting the current school year numbers. In addition to collecting the requisite information and preparing to post at the end of the school year, LEA's should also consider updating their board policies on athletic competition to reflect that this information will be compiled and made publicly available.

The legislative history of SB 1349 indicates that a major purpose behind the bill was to make it easier to monitor and enforce Title IX and state requirements for gender equity in public school athletics. These requirements were recently reinforced by the federal Ninth Circuit Court of Appeal in *Oller v. Sweetwater Union High School District* (9th Cir. 2014) 768 F.3d 843, a case in which the court found the District liable for failing to provide substantially equal opportunities for female athletes. For more information on the *Oller* case, please see [Lozano Smith's Client News Brief No. 74 \(October 2014\)](#).

The inclusion of this new reporting requirement in the Guidance indicates the CDE is already gearing up to monitor/review this educational equity issue. The full text of the [Guidance can be read here](#). The recent *Oller* case, SB 1349, and the Guidance demonstrate an increasing focus on Title IX monitoring. Now, more than ever, LEA's must ensure compliance with Title IX's numerous requirements.

Given the significance of Title IX requirements and the ability for attorney's fees to be collected if enforcement actions are successful, Lozano Smith has formed a *Title IX Impact Team*, spearheaded by partner [Michael Smith](#) and Senior Counsel [Michelle Cannon](#). This *Impact Team*, made up of attorneys across multiple practice areas, is leading the firm's efforts to provide comprehensive trainings and advice addressing legal needs related to Title IX.



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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

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Reminder – Looming June 30 Deadline for Posting Competitive Athletics Data

The 2015-16 school year marks the first time that public elementary and secondary schools that offer "competitive athletics" must post data about the gender makeup of their teams and their student participation. Charter schools must also comply.

By June 30 of each school year starting in 2016, each school must make the following information available on its website:

- 1) The total enrollment of the school, classified by gender;
- 2) The number of pupils enrolled at the school who participate in competitive athletics, classified by gender; and
- 3) The number of boys' and girls' teams, classified by sport and by competition level.

If the school does not have a website, the data must be posted on the website of the school district or charter operator.

This requirement is found in Education Code section 221.9, which defines "competitive athletics" to mean sports where the activity has coaches, a governing organization and practices, competes during a defined season, and has competition as its primary goal.

Section 221.9 does not include a specific exception or any other guidance for schools that do not offer any competitive athletics. Those schools may consider posting a notice simply stating that they do not offer competitive athletics.

As we previously reported ([see 2015 Client News Brief No. 76](#)), the legislative history of Education Code section 221.9 indicates that a major purpose of this new law is to make it easier to monitor and enforce Title IX and state requirements for gender equity in public school athletics. Because of the increasing focus on gender equity issues, it is more important than ever for schools and districts to monitor and ensure compliance with Title IX's numerous requirements.

Lozano Smith has dedicated additional focus to this area by forming a Title IX Impact Team that can assist districts with addressing legal needs related to Title IX and gender equity.

If your school site or district needs sample language for these new posting requirements or additional information, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).

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