



STATE OF HAWAII
DEPARTMENT OF EDUCATION

P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

December 23, 2019

The Honorable Ronald D. Kouchi, President
and Members of the Senate
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker
and Members of the House of Representatives
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Hawaii Department of Education's report on its compliance with the Patsy T. Mink Opportunity in Education Act and the Resolution Agreement between the Hawaii State Department of Education and the United States Department of Education Office for Civil Rights dated December 20, 2017. The report may also be viewed electronically at <http://www.hawaiipublicschools.org/VisionForSuccess/SchoolDataAndReports/StateReports/Pages/Legislative-reports.aspx>.

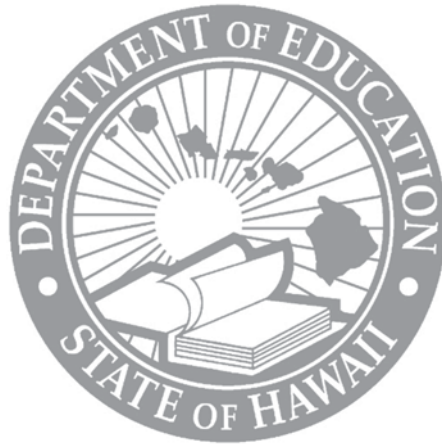
Sincerely,

A handwritten signature in blue ink, appearing to read "CK", representing Dr. Christina M. Kishimoto.

Dr. Christina M. Kishimoto
Superintendent

CMK:cac
Enclosures

c: Legislative Reference Bureau
Office of Talent Management



State of Hawaii
Department of Education

Relating to Title IX Report to the 2020 Legislature School Year 2018-2019 and School Year 2019-2020

December 2019

House Concurrent Resolution No. 198, S.D. 1 (2018), requires the State of Hawaii Department of Education to report on its efforts to comply with Title IX of the Educational Amendments of 1972 (Title IX), as it pertains to the Resolution Agreement with the United States Department of Education, Office for Civil Rights and the State of Hawaii Department of Education and gender equity in athletics.

LEGISLATIVE REPORT

The State of Hawaii Department of Education (HIDOE) is committed to Title IX and the tenets that it upholds, including equitable use of athletic facilities and resources and ensuring that the terms contained in the December 20, 2017 Resolution Agreement with the Office of Civil Rights (OCR) are met.

1. Actions taken by the HIDOE to comply with Title IX pursuant to the Resolution Agreement

- **Compliance Coordinators.** In August 2015, the HIDOE hired a Title IX Specialist for the HIDOE system. Contact information for the Title IX Specialist was posted on the HIDOE website. Brochures and materials identifying contact information for the Title IX Specialist were distributed.
- **Equity Specialists.** Subsequently, in July 2017, the Hawaii State Legislature approved 18 permanent Equity Specialist positions for the HIDOE Civil Rights Compliance Branch (CRCB). Three of these positions are based in the state CRCB office.

The remaining 15 Equity Specialist positions are located in each of the HIDOE complex areas:

1. Aiea-Moanalua-Radford
2. Leilehua-Mililani-Waialua
3. Farrington-Kaiser-Kalani
4. Kaimuki-McKinley-Roosevelt
5. Campbell-Kapolei
6. Nanakuli-Waianae
7. Pearl City-Waipahu
8. Castle-Kahuku
9. Kailua-Kalaheo
10. Hilo-Waiakea
11. Honokaa-Kealakehe-Kohala-Konawaena
12. Kau-Keaau-Pahoa
13. Baldwin-Kekaulike-Maui
14. Hana-Lahainaluna-Lanai-Molokai
15. Kapaa-Kauai-Waimea

The contact information for the Equity Specialists is posted on the HIDOE's Civil Rights Compliance Branch (CRCB) webpage at <http://www.hawaiipublicschools.org/ConnectWithUs/Organization/Offices/Pages/CRCO.aspx>. The Equity Specialists positioned in the complex areas also have their contact information posted on each of the school's website in their respective complex areas.

- **Notice of Non-Discrimination.** The HIDOE has developed the following non-discrimination notices: (1) the *Annual Notice of Non-Discrimination* (Annual Notice) and (2) the *Continuous Notice of Non-Discrimination* (Continuous Notice).

The Annual Notice has been translated into 14 languages and is posted at <http://www.hawaiipublicschools.org/ConnectWithUs/Organization/Offices/Pages/CRCO.aspx>. Each school posts a copy of the Annual Notice on its website. The Annual Notice was also included in the 2018-2019 and the 2019-2020 Opening of the School Year packet that was disseminated to all employees prior to the beginning of the school year.

The Continuous Notice continues to be included in electronic or printed publications of general distribution that provide school-related information to students, employees, or applicants. These publications include but are not limited to, school announcements, school reminders, bulletins, catalogs, student planners, school handbooks, registration forms, school newsletters, and application forms (if applicable). The information included in the Continuous Notice confirms that the HIDOE and its schools do not discriminate on the basis of race, sex, age, color, national origin, religion, or disability in its programs and activities.

In Fall 2019, both the Annual Notice and Continuous Notice were revised and sent to all schools to be posted onto their respective websites (Revised Annual Notice) and to be included in subsequent electronic or printed publications (Revised Continuous Notice). Changes in the Revised Annual Notice include additional protected classes (e.g., ancestry, gender identity, gender expression, and sexual orientation) and a statement regarding the right to receive language assistance free of charge. In addition, non-substantive changes were made to the contact information for the CRCB. The Revised Annual Notice was also translated into 14 languages and posted on the HIDOE website. Changes in the Revised Continuous Notice include additional protected classes (e.g., ancestry, gender identity, gender expression, and sexual orientation) as well as non-substantive changes to the contact information for the CRCB.

- **Grievance Procedures (Complaints Process).** The HIDOE recommended revisions to Hawaii Administrative Rules (HAR), Title 8, Chapter 19 *Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism* (Chapter 8-19). Chapter 8-19 governs student-to-student misconduct and discipline. Revisions to Chapter 8-19 include a process for student-to-student misconduct based on a protected class, including but not limited to: bullying/cyberbullying, discrimination, and harassment; immediate interventions; and new definitions for what is prohibited protected class conduct, e.g., race/national origin harassment, sexual harassment, gender-based harassment, disability harassment.

The HIDOE recommended the repeal of HAR Chapter 8-41, *Civil Rights Policy and Complaint Procedure* (Chapter 41), and recommended it be replaced by a newly-drafted HAR entitled *Civil Rights Policy and Complaint Procedure for Student(s) Complaints Against Adult(s)* (Chapter 8-89). Chapter 8-89 sets forth the process for students to file civil rights complaints against adults for prohibited protected class conduct.

Both the revisions to Chapter 8-19 and the new Chapter 8-89 incorporate the requirements of the Resolution Agreement, specifically a complaint process for students to report instances of protected class discrimination and harassment. In Spring 2018, the CRCB held statewide stakeholder community meetings, including rural areas such as Hana, Lanai, and Molokai, to gather input regarding the proposed revisions to Chapter 8-19 and the new Chapter 8-89. A public hearing on Chapter 8-19 and Chapter 8-89 was held on July 16, 2019. In Fall 2018, the CRCB also held stakeholder meetings with school administrators in each of the complex areas, as well as a second round of community meetings. Based on the feedback received and subsequent revisions, the BOE approved both Chapter 8-19 and Chapter 8-89 in August 2019. Chapter 8-89 was approved and signed by the Governor in October 2019. The revised Chapter 8-19 was approved and signed by the Governor in November 2019. Implementation guidelines for both rules are currently being developed and training for school administrators is presently in progress across the state.

- **On-Going Compliance.** The CRCB established the Civil Rights Compliance Advisory Committee (Advisory Committee). The Advisory Committee meets annually to: (a) monitor key compliance items; (b) analyze data; (c) solicit community feedback; and (d) report findings. The Advisory Committee members include HIDOE administrators (complex and school level), a teacher representative, an athletics representative, parent representatives, and community members from various stakeholder groups.

The Advisory Committee last met on March 13, 2019. The Advisory Committee members discussed key compliance items such as the Non-Discrimination notices and grievance procedures (Chapter 8-19 and Chapter 8-89), training on civil rights issues, and exchanged information regarding key civil rights issues.

- **Training.** The CRCB finalized a Request for Proposal (RFP) for the purposes of training Equity Specialists, Administrators, and Principals about Title IX compliance and related issues. HIDOE procured the services of (1) the *Association for Title IX Administrators* (ATIXA) for training pertaining to sexual misconduct offenses and investigations and (2) *Good Sports, Incorporated* (Good Sports) for training regarding gender equity in athletics.

Title IX Training: Misconduct and Investigations

Between April 2019 and September 2019, ATIXA conducted various types of Title IX training for the HIDOE. Attendees included the CRCB Equity Specialists; at least one administrator from each of the HIDOE's 256 schools; various state, district, and complex area administrators; and representatives from the Attorney General's office.

Training included two separate four-day sessions for CRCB Equity Specialists. The first training in April 2019, was entitled *PreK-12 Title IX Administrator and Investigator Training and Certification* and focused on the duties and responsibilities of Title IX Coordinators.

The second training for CRCB Equity Specialists was conducted in September 2019 and was entitled *PreK-12 Advanced Coordinator and Investigator Training Certification*. During this training, topics covered included recent Title IX court decisions and OCR Title IX Resolution Agreements from other school district jurisdictions; the proposed federal Title IX regulations, including what practices schools must and should prepare to implement; and listening and questioning exercises.

Between April 2019 and September 2019, at least one school administrator from each of our 256 HIDOE schools, as well as other state and complex level personnel, attended ATIXA's *PreK-12 Title IX Certification Course*. This was a two-day Title IX investigator training. Topics included an overview of Title IX, including Title IX case law, notice, reporting, and responsible employee requirements; types of sexual harassment; best practices for Title IX investigations; and other Title IX topics, including pregnant and parenting students and gender identity. Each participant who attended the entire two-day training received Title IX Investigator Certification from ATIXA.

In September 2019, ATIXA presented *PreK-12 Title IX Senior Level Administrator Training* to the HIDOE's Leadership Team. In attendance were the Superintendent, the Deputy Superintendent, the Chief of Staff to the Superintendent, Assistant Superintendents, Complex Area Superintendents, and representatives from the Legislature. Topics for this presentation included an overview of Title IX, Title IX case law, recent OCR Title IX Resolution Agreements, the role of the Title IX Coordinator (including the role of the CRCB and school administrators), and other Title IX topics (*e.g.*, pregnant and parenting students and gender identity).

Title IX Training: Gender Equity in Athletics

In June 2019 and July 2019, Good Sports conducted Title IX training regarding gender equity in athletics. Full-day classroom training occurred on Oahu, the Big Island, Maui, and Kauai.

The classroom training provided an overview of gender equity in school athletic programs, as well as information regarding the benefits and opportunities in athletics that are specified in Title IX's implementing regulations. The classroom training was attended by school administrators, Athletic Directors, the CRCB Equity Specialists, representatives from the Attorney General's office, representatives from the Office of Curriculum and Instructional Design (OCID), and representatives from the Office of Facilities and Operations (OFO). As part of the classroom training, each participant received a copy of Good Sports Title IX high school athletics manual, entitled *Title IX and Interscholastic Athletics: How it all Works – In Plain English*, as well as an *Athletics Self-Assessment*, which is a workbook of athletic program assessment forms that Good Sports individualized for Hawaii.

In addition to the Good Sports full-day classroom training, Good Sports also provided on-site training at the HIDOE high schools with athletic programs. The on-site training included training on assessing issues schools should be aware of when providing gender-equitable benefits and opportunities in their athletic programs.

On July 12, 2019, both ATIXA and Good Sports were presenters for three break-out sessions for the HIDOE's 2019 Educational Leadership Institute conference.

2. Actions taken by the HIDOE to comply with Title IX with regard to all athletic facilities, including, but not limited to fields, locker rooms, and transportation

- Schools that were identified as having a male-only athletic locker room (and no corresponding female athletic locker room) began to alternate the use of the locker room between the male and female athletes by sports season.

These schools were:

1. Aiea High
2. Campbell High
3. Kaimuki High
4. Kauai High
5. Maui High
6. Mililani High
7. Moanalua High
8. Radford High
9. Waialua High
10. Waianae High
11. Waipahu High

For some of these schools, concerns arose because the athletic locker rooms were attached to the male Physical Education (PE) locker rooms and separated by a

see-through gate. For these schools, the HIDOE took measures to ensure that the athletic locker room could be used by both male and female athletes. These schools include:

1. Aiea High
2. Kaimuki High
3. Kauai High
4. Mililani High
5. Moanalua High
6. Waipahu High

At Aiea High, the see-through gate was replaced with a solid entryway that may be locked.

At Kaimuki High, the female PE locker room already had a partitioned area of lockers, so a separate entrance to the partitioned side of the locker room was installed, creating a dedicated area for female athletes.

At Kauai High, Moanalua High, and Waipahu High, the HIDOE replaced the see-through gate with a solid entryway, as well as created a similar entryway between the female locker room and the athletic locker room.

At Mililani High, the HIDOE replaced the see-through gate with a solid entryway, as well as created a similar entryway on the female locker room side, and an enclosed hallway that leads from the female locker room to the athletic locker room.

- During School Year (SY) 2018-2019, the Athletic Self-Assessment (Self-Assessment) pertaining to gender equity issues for the high schools' athletic programs was facilitated at each high school with an athletic program. The purpose of the Self-Assessment was to gather data and feedback regarding how the program supported student-athletes, as well as to identify any possible disparities between male and female athletes. The questions in the Self-Assessment were based on specific benefits and opportunities in athletics that are indicated in Title IX and its implementing regulations. The results of the Self-Assessment for each high school will be used to make program improvements.
- Action Plans will be implemented for each high school, as reasoned to be necessary. Participation rates will continue to be compiled for each high school.
- The CRCB will annually interview student-athletes, both male and female, regarding their athletic experiences.
- The CRCB established a Gender Equity in Athletics Committee (Gender Equity Committee) that is composed of both HIDOE employees and members of the community, including representatives from all islands. This committee will be responsible for

reviewing the information gathered from the Self-Assessments and assisting HIDOE with recommendations for the development of the Action Plans.

The Gender Equity Committee met on February 26, 2019, and August 26, 2019. The February 26, 2019 meeting provided an opportunity for members to discuss the purpose and objectives of the Gender Equity Committee, receive a brief overview of the Title IX requirements for school athletic programs, and discuss the committee's responsibilities.

During the August 26, 2019 meeting, committee members had a robust discussion regarding several items, including a debriefing on the Good Sports training that was provided to all schools during June 2019 and July 2019. Other issues that were discussed included facilities concerns, the new Self-Assessment schedule, the process for the student-athlete interviews, and the Student Interest Survey.

3. All requests for appropriations, positions, and any proposed legislation to comply with the requirements of Title IX

- **Athletic Facilities.** For Fiscal Year 2019 and Fiscal Year 2020, the HIDOE requested \$62 million for gender equity projects.
- **Further Title IX Training & Consultation.** During SY 2020-2021, the HIDOE is proposing to expand the Title IX training to teachers, counselors, and students. Additional training and consultation pertaining to gender equity in programs and services are also being proposed for new Athletic Directors, School Administrators, and Equity Specialists.