A BILL FOR AN ACT

RELATING TO GENDER EQUALITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. The legislature finds that over the last eight years, the department of education has been accused of failing to provide equal treatment to both genders in regards to school athletics. The legislature notes that in 2010, the American Civil Liberties Union of Hawaii filed a lawsuit against the department of education over gender inequalities in the girls' softball program at Baldwin high school, which resulted in a settlement agreement between the parties. The legislature further notes that the American Civil Liberties Union of Hawaii has also recently filed a lawsuit on behalf of students from James Campbell high school against the Oahu interscholastic association and the department of education alleging a failure to comply with Title IX of the federal Education Amendments of 1972. The legislature believes that the department of education must begin proactively establishing procedures and mechanisms for achieving full compliance with Title IX.

Accordingly, the purpose of this Act is to:
(1) Establish the advisory commission on gender equity in sports to evaluate the rules and procedures for gender equity enforcement mechanisms and make recommendations to the department of education; and

(2) Require the superintendent of education to submit a Title IX compliance report to the legislature and the advisory commission.

SECTION 2. Advisory commission on gender equity in sports; establishment. (a) There shall be established within the department of education for administrative purposes only, an advisory commission on gender equity in sports, which shall be composed of the following members:

(1) One member to be appointed by the superintendent of education; and

(2) Six members, two each appointed by the governor, the speaker of the house of representatives, and the president of the senate;

provided that each appointing authority shall appoint commission members that represent, to the maximum extent possible, the gender, racial, and ethnic diversity of the State.
(b) The advisory commission shall determine if any school does not demonstrate substantial progress toward compliance with Public Law 92-318, Title IX of the federal Education Amendments of 1972, and section 302A-1001. Based upon its findings and determinations, the advisory commission may make annual recommendations to the board of education, the superintendent of education, and the legislature no later than December 1 of each year.

(c) The advisory commission shall expire three years after the effective date of this Act.

SECTION 3. Equity in athletics; rules and implementation.

The advisory commission shall:

(1) Evaluate the rules and procedures for appropriate enforcement mechanisms to ensure equity in athletics for all public schools and shall develop a strategic plan containing recommendations and a timetable to achieve equity; provided that if a strategic plan that contains recommendations and a timetable to achieve equity already exists, the advisory commission may review and revise the existing strategic plan in lieu of developing a new strategic plan;
(2) Make recommendations to the department of education relating to the use of existing personnel, equipment, resources, and facilities. The recommendations shall include but not be limited to:

(A) A determination of an equitable rate of participation of males and females in athletics at public high school campuses;

(B) An examination of the issues that could result in complaints and allegations of failure to comply with Public Law 92-318, Title IX of the federal Education Amendments of 1972, and section 302A-1001;

(C) A review of the various remedies for violations of Public Law 92-318, Title IX of the federal Education Amendments of 1972, and section 302A-1001, that may be available to an aggrieved party; and

(D) A determination of the appropriate use of revenues when making decisions about the equitable use of funds for support of athletic activities. In making this determination, the
advisory commission shall consider all funds received and expended for athletic promotion or support, including revenues from direct-support organizations; and

(3) Develop indicators and establish benchmarks to measure progress toward goals.

SECTION 4. Factors; unequal aggregate expenditures. (a)

In making any determinations or recommendation under this subpart, the advisory commission on gender equity in sports shall consider the following factors:

(1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(2) The provision of equipment, uniforms, and supplies;

(3) Equal access to practice and game times;

(4) Travel and per diem allowances;

(5) Opportunities to receive coaching and academic tutoring;

(6) Assignment and compensation of coaches and tutors;

(7) Access to locker room, weight room, practice, competitive, and training facilities;
(8) Access to medical services;
(9) The provision of housing and dining facilities and services;
(10) Publicity; and
(11) Any other relevant factors.
(b) Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams, if a public high school operates or sponsors separate teams, do not constitute a violation of this subpart, but in determining violations of this subpart, the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex shall be considered.

SECTION 5. Compliance report. By December 31, 2019, the superintendent of education shall submit to the legislature and the advisory commission on gender equity in sports a report of compliance with Public Law 92-318, Title IX of the federal Education Amendments of 1972, including a compliance plan with timelines for every public high school, an analysis and assessment of current activities with respect to Title IX compliance, and itemized expenditures for athletics.
SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. This Act shall take effect upon its approval.

INTRODUCED BY:

[Signatures]

JAN 24 2019
Report Title:
DOE; Gender Equity; Athletics; Advisory Commission; Establishment

Description:
Establishes the advisory commission on gender equity in sports to evaluate the rules and procedures for gender equity enforcement mechanisms and make recommendations to the Department of Education. Requires the Superintendent of Education to submit a Title IX compliance report to the Legislature and the advisory commission.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.