



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

December 18, 2018

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 Equal 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,

Dr. Christina M. Kishimoto
Superintendent

CMK:srt
Enclosures

c: Legislative Reference Bureau
Office of Talent Management



State of Hawaii
Department of Education

**Relating to Title IX Report to the 2019 Legislature School Year 2017-2018 and
School Year 2018-2019**

December 2018

House Concurrent Resolution No. 198, S.D. 1, 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 entire 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.
- Subsequently, in July 2017, the Hawaii State Legislature approved 18 permanent Equity Specialists positions for the HIDOE Civil Rights Compliance Branch (CRCB). Three of these positions are based in the state CRCB office and have all been filled. The remaining 15 Equity Specialist positions are located in each of the HIDOE complex areas
 1. Aiea-Moanalua-Radford
 2. Leilehua-Mililani-Radford
 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 [CRCB webpage](#). Each Complex Equity Specialist also has their contact information posted on each 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 on the [HIDOE website](#). Each school with a website has also posted a copy of the Annual Notice on their website. The Annual Notice was also included in the 2018-2019 Opening of the School Year packet that was disseminated to all employees prior to the beginning of the school year.

The Continuous Notice has been and will continue to be included in electronic or printed publications of general distribution that provide school related information to students, employees, or applicants. These publications included, but were 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 March 2018 and April 2018, all Complex Area Superintendents and principals were notified of the above-referenced requirements for posting of the Annual Notice and inclusion of the Continuous Notice in publications of general distribution.

- **Grievance Procedures (Complaints Process).** The HIDOE is currently in the process of revising Hawaii Administrative Rules Chapter 19 *Student Misconduct, Discipline, School Searches and Seizures, Reporting Offenses, Police Interviews and Arrests, and Restitution for Vandalism* (Chapter 19). Chapter 19 governs student-to-student misconduct and discipline. Revisions to Chapter 19 include a process for student-to-student conduct 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 is recommending the repeal of the current Hawaii Administrative Rule Chapter 41 *Civil Rights Policy and Complaint Procedure* (Chapter 41) and replacing it with a newly drafted Hawaii Administrative Rule – Chapter 89 entitled

Civil Rights Policy and Complaint Procedure for Student(s) Complaints Against Adult(s) (Chapter 89). Chapter 89 sets forth the process for students to file civil rights complaints against adults for prohibited protected class conduct.

Both the revisions to Chapter 19 and the proposed new Chapter 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 like Hana, Lanai and Molokai- to gather input regarding the proposed revisions to Chapter 19 and the proposed new Chapter 89. Currently the CRCB is holding stakeholder meetings with school administrators in each of the complex areas, as well as a second round of community meetings. If it is determined that Chapter 19 and/or Chapter 89 should be revised based on stakeholder input, the revisions will require Hawaii State Board of Education (HIBOE) approval followed by the Governor's approval to hold a public hearing. A public hearing will be conducted by the HIBOE. Once the HIBOE approves Chapters 19 and Chapter 89, implementation guidelines for both rules will be developed.

- **On-Going Compliance.** The CRCB is in the process of establishing a Civil Rights Compliance Advisory Committee (Advisory Committee). The purpose of the Advisory Committee is to: (a) monitor key compliance items, (b) analyze data, (c) solicit community feedback, and (d) report findings.
- CRCB is finalizing the Request for Proposal (RFP) for purposes of Title IX training.

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

- In February/March 2018, the CRCB sent surveys to all high school Athletic Directors (ADs). The survey queried ADs in regards to totals for male and female athletic participation, whether the school had Physical Education (PE) locker rooms, athletic locker rooms, or other locker rooms to service athletes, the types of sports offered by the school, the types of athletic fields, courts, and gyms located on the school campus, and/or off-campus facilities used by the schools. The survey also inquired about accommodations for student athletes (both male and female) in terms of storing/keeping personal athletic equipment, and where they changed into their practice and/or game attire. The information

generated from this survey provided the CRCB with a “snapshot” of what athletic resources were available at each high school.

- In April 2018, on-site visitations were conducted at schools that have high school athletic programs. The purpose of the on-site visitations was to provide schools with targeted assistance, specific to their particular needs. As part of the on-site visitations, representatives from the female high school athletic teams were interviewed about their athletic experiences. At the conclusion of the on-site visits, meetings were held with the CRCB, the Department of the Attorney General, the school, and the Complex Area Superintendent (CAS)/designee to discuss possible and/or existing gender equity issues and ways to address these issues.

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

- In May 2018, the CRCB, Office of the Superintendent, the Office of School Facilities and Support Services (OSFSS) Facilities Development Branch, the Office of Curriculum and Instructional Design (OCID) and the Executive Directors of each of the Interscholastic Athletic Leagues met to discuss female athletic facilities on high school campuses.
- In May and June 2018, Superintendent Dr. Christina Kishimoto (Superintendent Kishimoto) met with the principals and ADs for all islands. During these meetings, Superintendent Kishimoto discussed the HIDOE’s expectations regarding Title IX and gender equity in athletics.
- In October 2018, it was determined that there were a few schools that had Athletic locker rooms attached to the male Physical Education (PE) locker rooms by a see-through gate. At the schools identified, small construction projects would eliminate the need to switch the females and males during their use of their respective locker rooms. For those schools identified, the HIDOE is presently in the midst of small construction projects (as described below) that will effectively separate the athletic locker room from the male’s P.E. locker room. This will ensure that the use of the separate Athletic locker room facility will provide privacy for both male and female athletes who use the locker room. Completion dates for these projects are tentative, but the goal is to complete the projects as expeditiously as possible. If the project is not underway after the Winter Break, the schools have been notified about the need to alternate the use

of the male and female locker rooms for athletic purposes during the interim. These schools include:

1. Aiea High

At Aiea High, there is a see-through gate, which will be replaced with a solid entryway that can be locked.

There is also currently an on-going CIP project for a new females' Athletic locker room.

2. Kaimuki High

Kaimuki High already has a partitioned area of lockers in the female PE locker room; however, a separate entrance will be created to the partitioned side of the locker room, which will create a dedicated area for female athletes.

3. Kauai High

It is planned that the see-through gate will be replaced with a solid entryway. A similar solid entry way will be created between the female locker room and the Athletic locker room.

4. Mililani High

A see-through gate will be replaced with a solid entryway, which will create privacy for both males and females. A hallway will be built from the female PE locker room to the Athletic locker room, and an entryway will be built on either side of the hallway.

5. Moanalua High

It is planned that the see-through gate will be replaced with a solid entryway. A similar solid entry way will be created between the female locker room and the Athletic locker room.

6. Waipahu High

It is planned that the see-through gate will be replaced with a solid entryway. A similar solid entry way will be created between the female locker room and the Athletic locker room.

- During School Year (SY) 2018-2019: The CRCB, in collaboration with each high school's AD, will facilitate self-assessments (Self-Assessment) pertaining to gender equity issues for the high school's athletic programs. The purpose of the Self-Assessment is to gather feedback regarding how the program is supporting student athletes, as well as to identify any possible disparities between male and

female athletes. The questions in the Self-Assessment are based on specific benefits and opportunities in athletics that are indicated in Title IX and its implementing regulations. The Self-Assessment will be a year-long process and the information gathered will be analyzed to formulate Action Plans. In order to establish a new baseline, all high schools will undergo the initial self-assessment at the same time.

- During SY 2019-2020, Action Plans will be implemented for each school, as reasoned to be necessary. Student interest surveys and participation rates will continue to be compiled for each high school.
- Beginning SY 2020-2021, and thereafter, on a three-year cyclical, one-third of the high schools in the State will complete the Self-Assessment. Information gathered from the Self-Assessment will include, but will not be limited to: participation rates, quality of athletic facilities, coaches' qualifications, number of regular season and pre-season games, and other relevant information. During the school years that a school is not undergoing the Self-Assessment, the CRCB will continue to work with the school to ensure compliance with Title IX, as it pertains to athletics.
- The CRCB will annually interview student athletes, both male and female, regarding their athletic experiences.
- The CRCB is in the process of establishing a Gender Equity in Athletics Committee (Gender Equity Committee) that will be 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 helping to develop Action Plans. The Gender Equity Committee will review a summary of the student interviews and submit a report to the Superintendent describing its monitoring and analysis activities, as well as any recommendations for improving gender equity in the HIDOE's school athletic programs.

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

- **Athletic Facilities.** For the 2019-2020 Biennium, OSFSS has requested \$45.51 million for gender equity projects. This includes the design of and/or improvements of locker rooms, as well as for improvements to school athletic fields.