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SB 1146 – Uncovering Discrimination in Higher Education

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Sponsor: Equality California

In Brief

SB 1146 would increase transparency in higher education by requiring institutions affiliated with religious organizations to publicly disclose exemptions to nondiscrimination law that they claim and allow prospective students or employees to make an informed decision about attending school or accepting employment.

The Issues

Title IX, a federal law, prohibits schools receiving federal funds from discriminating based on sex. The federal Department of Education and a growing number of federal courts have held that Title IX's prohibition on sex discrimination includes discrimination based on sexual orientation, gender identity and gender expression. Under current federal law, religious schools may request a waiver of Title IX in order to discriminate based on sex. Historically, very few schools requested such waivers; however, now that the Department of Education and courts have held that Title IX protects LGBT students from discrimination, a growing number of schools are seeking waivers so that they can discriminate against LGBT students.

While federal law gives schools the ability to receive federal funding and yet engage in discrimination based on sex, California law prohibits any recipient of state financial assistance from discriminating on the basis of sex and other categories. Despite that prohibition, at least seven California schools have or are seeking Title IX waivers. The applications for these waivers show that schools want them in order to discriminate against LGBT people. These schools do not disclose waiver requests to students or to the state.

The Solution

SB 1146 would require schools that claim an exemption under Title IX or California's Equity in Higher Education Act to disclose this information to the California Student Aid Commission, as well as students, faculty, and staff, both current and prospective.

Background

Pursuing higher education is a significant investment. Students who are expelled or forced to leave school because of their sexual orientation or gender identity stand to lose thousands of dollars that they have invested in their education and future. Institutions that claim exemptions under Title IX and California's Equity in Higher Education Act do not provide the same levels of protections for their students as other colleges and universities, even though they accept federal and state funds. Prospective students and their families and prospective employees of these institutions need access to this information.

Support

Equality California (Sponsor)
American Civil Liberties Union of California
Americans United for Separation of Church and State
Anti-Defamation League
Los Angeles LGBT Center
National Center for Lesbian Rights

For More Information

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