

California Interscholastic Federation
Report to the Legislature and Governor
January 2005

*Report to the California State Legislature and Governor Arnold Schwarzenegger
As required by Education Code Section 33353 (b) related to Interscholastic Athletics*

*Submitted by the California Interscholastic Federation
January 2005*

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To: The Honorable Arnold Schwarzenegger, Governor
The Honorable Don Perata, Senate President pro Tempore
The Honorable Fabian Nunez, Speaker of the Assembly
The Honorable Dick Ackerman, Senate Minority Leader
The Honorable Kevin McCarthy, Assembly Minority Leader

From: Marie Ishida, Executive Director, California Interscholastic Federation

Re: Report to the California State Legislature and Governor Related to Interscholastic Athletics

The following is a report as required by Education Code 33353 (b), which states, “The California Interscholastic Federation shall report to the Legislature and the Governor on its evaluation and accountability activities undertaken pursuant to Education Section 33353 (a).” This Section states, “The California Interscholastic Federation is a voluntary organization consisting of school and school-related personnel with responsibility for administering interscholastic athletic activities in secondary schools. It is the intent of the Legislature that the California Interscholastic Federation, in consultation with the State Department of Education, implement the following policies:

- (1) Give the governing boards of school districts specific authority to select their athletic league representatives.
- (2) Require all league, section, and state meetings affiliated with the California Interscholastic Federation be subject to the notice and hearing requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).
- (3) Establish a neutral final appeals body to hear complaints related to athletic policies.
- (4) Provide information to parents and pupils regarding the state and federal complaint procedures for discrimination complaints arising out of interscholastic athletic activities.

The following is intended to provide a status report on the three items identified in statute in addition to an update on CIF’s strategic plan.

1. Athletic League Representation

To ensure governing boards of school districts have specific authority to select their athletic league representatives, Article 2, Section 25 of the CIF State Constitution states the following:

“RATIFICATION OF REPRESENTATIVES

Each local school district board of education or private school governing board will ratify to the appropriate CIF Section office, by August 15, of each year, the appointment of individuals and alternates by name or by title who will be school representatives to the athletic leagues for the upcoming year. In the absence of the appropriate filing, all voting privileges for the affected school(s) shall be suspended.”

2. Brown Act Requirements

To ensure that all league, section, and state meetings affiliated with the California Interscholastic Federation are subject to the notice and hearing requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code), CIF’s Constitution Article 4, Section 44 states the following:

“MEETINGS AT LEAGUE, SECTION AND STATE LEVELS

All league, Section and State meetings, excluding State CIF and CIF Section appeal hearings of student eligibility, section playoffs or appeal hearings involving matters other than student eligibility or section playoffs, pursuant to Bylaws 1100, 1101, 1102 and 1103, are subject to the notice and hearing requirements of the Ralph M. Brown Act (Chapter 9, Division 2, Title 5 of the Government Code).”

The CIF State Office also provides member schools a fact sheet that outlines the provisions of the Brown Act and the responsibilities of the league, section and state as it relates to the Brown Act. The Brown Act fact sheet can be found in CIF’s Constitution and Bylaws located on the CIF website www.cifstate.org

3. Establishment of a Neutral Appeals Process

To ensure that a neutral final appeals body is available to hear complaints related to athletic policies, Article 11 of CIF's Constitution states the following:

“APPEALS AND DELEGATED POWERS

CIF SECTION STUDENT ELIGIBILITY APPEALS PROCEDURES

Each CIF Section shall establish appellate procedures, which incorporate the following requirements in final Section determination of student eligibility questions. Upon written appeal, the Section shall cause the appointment of either:

A. A hearing panel, OR

B. A single hearing officer.

Said panel or hearing officer shall be empowered to hear the matter under consideration and rule on the eligibility status of the appellant under Section and CIF State eligibility requirements. Neither members of the hearing panel, nor a single hearing officer can have been directly associated with the matter under consideration or directly associated with the schools involved in the matter or have any other interest, personal or professional, that would preclude a fair and impartial hearing. If it is apparent from the facts that the panel or the hearing officer have no authority to adjudicate the matter under the rules, the Section may find the appeal to be without merit and deny a hearing. The Section hearing need not be conducted according to the rules of evidence and those related to witnesses. Any relevant evidence including hearsay evidence shall be admitted. All testimony shall be given under oath or affirmation administered by hearing officer (a member of the panel or a single hearing officer). (Revised May 2003 Federated Council).

C. Dates and Deadlines for Section Student Eligibility Appeals

(1) A final appeal to the CIF Section, under this bylaw, must be initiated within 30 calendar days after a written notice of a Commissioner's, hearing panels or single hearing officer's decision denying eligibility is sent (by postmarked mail) to the affected party.

(2) If the affected party fails to file the appeal within the 30 calendar day period, the Section's Hearing, Panel or hearing officer will not hear the appeal, and the Commissioner's decision, or hearing panel or hearing officers decision, denying eligibility, shall be final.

(3) Within 10 business days after receiving the appeal, the CIF Section will send notice of the receipt of the appeal to the Section's panel or hearing officer, and to the appellant.

(4) Within 30 business days after notifying both parties, a hearing shall take place at a time and place determined by the Section's panel or hearing officer. Any continuance of the timelines must be agreed upon and documented.

(5) A written decision of the Section's panel or hearing officer shall be sent to the Section Commissioner and appellant within 10 business days after the hearing.

(6) From the last published CIF sponsored activity until August 15, appeal hearings may be held if the State or Section can accommodate such a request with available personnel.
(Adopted May 2003 Federated Council)

1101. CIF STATE STUDENT ELIGIBILITY APPEALS AND REVIEW PROCEDURE

Appeals of final decisions determined through the CIF Section appeals procedure concerning student eligibility may be presented to the CIF State Executive Director's office after the CIF Section decision has been made in accordance with the following, if the appellant believes that the Section violated one or more of the following procedural guidelines:

A. Was the Section's decision or action lawful; i.e., did the decision or action violate Title V, the Education Code, etc. and did it extend appropriate due process to the parties?

B. Was the Section's decision or action fraudulent?

C. Did the Section act arbitrarily?

(1) Did the Section have rules and criteria by which it reached its decision?

(2) Were the Section's rules and criteria reasonable; i.e., do the Section's rules reasonably relate to a legitimate objective?

(3) Did the Section follow its own rules and criteria?

(4) Does the Section's action or decision have a basis in reason, or in other words, a reasonable basis?

The test to be employed in the application of this criteria is whether responsible people, acting in a thoughtful manner, could reasonably have reached the same decision as the Section and not whether others might personally believe the decision.

The Executive Director, upon receiving such an appeal, may review the Section's decision based on the above guidelines to determine whether their action was a violation of any of the above. If, in his or her judgment, this is the case, the Executive Director may return this matter to the Section for further review or, if necessary, set aside the decision and take jurisdiction consistent with Bylaw 1108 A.

D. Dates and Deadlines for CIF State Student Eligibility Appeals

(1) An appeal to the Executive Director, under this bylaw, must be initiated within 30 calendar days after a written notice of a CIF Section's decision denying eligibility is sent (by postmarked mail) to the affected party.

(2) If the affected party fails to file the appeal within the 30 calendar day period, the Executive Director will not hear the appeal and the CIF Section's decision, denying eligibility, shall be final.

(3) If the appeal is filed within the 30 business day period, the Executive Director will send notice of the receipt of the appeal, within 10 calendar days after receiving the appeal, to the CIF Section, and to the appellant. The notice to the CIF Section shall include all documents filed by the appellant.

(4) The CIF Section may file a response to the appeal within 15 business days. The response shall be served on the appellant. The appellant may have five (5) days to file a reply with the Executive Director.

(5) A written decision of the Executive Director shall be sent to the CIF Section and appellant within 15 business days of receipt of the final reply.
(Revised May 2003 Federated Council)

1102. CIF SECTION APPEALS PROCEDURES INVOLVING MATTERS OTHER THAN STUDENT ELIGIBILITY OR SECTION PLAYOFFS

Each CIF Section shall establish appellate procedures, which incorporate the following requirements. In the final Section determination of rules questions other than student eligibility or Section playoffs:

A. Upon written appeal, the Section shall cause a hearing body to be convened. Said body shall be empowered to hear the matter under consideration and rule on the matter at hand;

B. Sections shall publish appeal procedures and provide appropriate due process for schools engaged in any appeal under the CIF Section and/or CIF State bylaws;

C. Sections shall provide for timely notice of appeals, time schedule of such appeals, and written notice for determination of the matter being appealed;

D. Section appellate procedures shall allow for written and verbal presentations by the appellant to hearing bodies and testimony by knowledgeable parties.

1103. CIF STATE APPEAL PROCEDURES INVOLVING MATTERS OTHER THAN STUDENT ELIGIBILITY OR SECTION PLAYOFFS

A. Appeals of final decisions determined through the CIF Section appeals procedure concerning the Constitution and Bylaws of the CIF State or Section may be presented to

the CIF State Executive Director's office for mediation after the CIF Section decision has been made in accordance with the following:

(1) Was the Section's decision or action lawful, i.e., did the decision or action violate Title V, the Education Code, etc. and did it extend appropriate due process to the parties?

(2) Was the Section's decision or action fraudulent?

(3) Did the Section act arbitrarily?

a. Did the Section have rules and criteria by which it reached its decision?

b. Were the Section's rules and criteria reasonable; i.e., do the Section's rules reasonably relate to a legitimate objective?

c. Did the Section follow its own rules and criteria?

d. Does the Section's action or decision have a basis in reason, or in other words, a reasonable basis? The test to be employed in the application of this criterion is whether responsible people, acting in a thoughtful manner, could reasonably have reached the same decision as the Section and not whether others might personally believe the decision.

B. Upon receiving such an appeal, the Executive Director may, after consultation with the parties to the appeal, schedule a mediation process if, in the judgment of the Executive Director, there is a likelihood of success for this process.

(Revised May 2003 Federated Council)

1104. CIF SECTION PLAYOFF APPEALS PROCEDURES INVOLVING SECTION RULES AND REGULATIONS ONLY

Each CIF Section shall establish, to the greatest extent possible, a fair procedure to ensure a review of such matters, consistent with the time constraints involved. The decision of the Section on such matters will be final.

1105. CIF STATE PLAYOFF APPEALS PROCEDURES

The CIF State Executive Director shall have full authority to rule on any appeal directly involving State playoffs or to delegate such authority to game or meet authorities. Such a delegation of authority would not prevent the Executive Director from subsequently assuming jurisdiction if the Executive Director believed conditions warranted same.

1106. INTER-SECTIONAL DISPUTES PROCEDURE

In the event that two CIF Sections cannot come to a mutual agreement on an issue, a three -person committee composed of the President, President-Elect and past President, along with the CIF State Executive Director, is authorized to hear the issue and render a

decision which would be binding. If any member of the Committee is a representative of a CIF Section involved in the dispute, the President shall select another member of the Federated Council to serve on the Committee for that particular issue.

1107. EXECUTIVE DIRECTOR'S AUTHORITY TO INTERPRET

The CIF State Executive Director is authorized to interpret the CIF State Constitution, Bylaws, and Federated Council regulations, and to issue such official interpretations in writing to all CIF Sections. The Executive Director will report any official interpretations issued at subsequent Executive Committee meetings for their review and consideration.

1108. DELEGATED POWERS

A. In emergency situations, the CIF State President or Executive Director or his/her authorized designee may act for the Federated Council in the best interest of the organization. This action will be reviewed by the Executive Committee as soon as possible.

B. Between meetings of the Federated Council, the Executive Committee shall be empowered to act for the Federated Council when necessary. This action will be subject to the approval of the Federated Council at its next meeting.

1109. SETTING ASIDE THE EFFECT OF A RULE FOR WHICH THERE IS NO PROVISION FOR WAIVER

The Executive Director and a Section appeals committee, may, on a case-by-case basis, upon evaluation of the evidence, set aside the effect of any bylaw when, in their joint opinion all of the following criteria are met:

A. There exists a hardship as defined by Bylaw 215;

B. The rationale of the rule being waived will not be offended or compromised;

C. The principle of the educational balance (over athletics) will not be offended or compromised;

D. The waiver will not result in a safety risk to teammates or competitors;

E. The waiver will not result in an unfair displacement of another student from athletic competition;

F. Competitive equity among competitors will not, as a result of the waiver, be skewed in favor of the student or the student's team. (May 1997 Federated Council)

NOTE: In practice, this bylaw is initiated by a Section appeals committee. However, the Bylaw may be initiated by the Executive Director upon review of an appeal.

4. Equity Complaint and Appeal Procedure

In order to ensure CIF provides information to parents and pupils regarding the state and federal complaint procedures for discrimination complaints arising out of interscholastic athletic activities, CIF has included on its website the various processes and procedures related to complaints. Attached is a copy of that document. Additionally, member schools, leagues and sections must develop procedures which ensure that all involved parties, including the complainant, have the opportunity to provide evidence, testimony, and information, as needed.

CIF established a group of 22 Title IX equity experts statewide to assist member schools, leagues and sections regarding questions related to Title IX compliance.

Update of the California Interscholastic Federation's Strategic Plan January 2005

In December 2004, the California Interscholastic Federation presented to its Executive Committee and Federated Council an update on CIF's activities. This Update is included below.

About CIF

The California Interscholastic Federation governs California interscholastic athletics, promoting equity, quality, character and academic development. 1,362 public and private schools (926 public and 436 private high schools) comprise the membership of CIF with students participating in interscholastic athletics.

In 1992, the California Interscholastic Federation approved a strategic plan that set forth the vision, mission and long range goals of the organization.

- Promote the Economic Viability of high school athletics
- Govern CIF in a manner which is responsive to the needs of its constituents
- Achieve Equity in high school athletics and CIF governance structures
- Establish Ongoing Communication with agencies, organizations and political entities whose functions and interests interface with CIF
- Promote the awareness and understanding of Health and Safety issues facing high school athletics
- Ensure the Quality of Coaching by taking a leadership role in the professional development of high school coaches
- Ensure the Quality of Officiating of high school athletic contests

In addition, the CIF believes athletic competition is an integral part of the high school experience. CIF's ideal of "Pursuing Victory With Honor," provides the opportunity to dramatically influence the actions of the athletic community. CIF strives to strengthen the integrity of students and adults across the state by promoting the concepts of sportsmanship, honesty and quality academics. These priorities advance the highest principles of character – trustworthiness, respect, responsibility, fairness, caring and good citizenship.

Update of CIF's Strategic Plan

Below is a synopsis of the activities CIF has undertaken and accountability provisions associated with meeting these goals.

Goal – Ensure the quality of coaching by taking a leadership role in the professional development of high school coaches (1995)

- 1996-1998 – Reviewed Title V regulations to ensure compliance. Adopted the NFHS/ASEP program to meet Title V. Trained a 30 member state faculty
- 1997-98 – Worked with allied organizations, secured state matching funds for school districts who participate in Coaching Education
- CIF Offers Educational Services

Specific Actions Taken

- 1993 – No Programs
- 2004 — Major Programs Offerings, including:
 - 18,000+ coaches trained in CIF Coaching Education program
 - Since 2002 - 1,613 athletic administrators completed various CIF trainings
 - From Tulalake to Calexico, the CIF has presented 74 times to over 13,000 adults in the “CIF Parents” program
- Other Major Training Program Efforts
 - For Coaches
 - NFHS Coaching Principles
 - Citizenship Through Sports
 - Pursue Victory with Honor
 - Law & Liability for Coaches
 - Principals/Superintendent Training's
 - “Being a Successful Athletic Parent” presentations
 - Athletic Administration 15 classes including:
 - Instructor Trainings
 - Nuts and Bolts of Admin
 - Law and Liability
 - Title IX, Sexual Harassment & ADA
 - Mentoring
 - Citizenship
 - Time Management
 - Dealing with Difficult People
- Parents
 - Provide information to parents and pupils regarding state and federal complaint procedures

Goal – Govern the CIF in a manner that is responsive to the needs of the constituents

The plan recommended:

- Establishment of a Statewide Policies Committee
- Development of a plan to facilitate increased participation in governance meetings
- Development of a plan to improve communication with constituents

As a result CIF created Advisory Committees (1993) focused on:

- Marketing & Management
- Basketball
- Cross Country/Track
- Volleyball
- Wrestling

Also, CIF created Advisory Committees

- Presidents Advisory
- Policy and Procedures
- Sportsmanship/Citizenship
- Coaching Education
- Officiating
- Health & Safety
- Equity Action
- Economic Viability
- Championships, Special Events
- Legislative Action
- Risk Management
- Basketball
- Cross Country/Track
- Volleyball
- Wrestling
- Golf

Specific actions taken:

- Asked CIF Sections to have representation that reflected the demography of the state
- Evaluations by participants of Federated Council meetings
- Regular meetings with Allied groups and added representation to the Federated Council
- CIF representation/displays at conferences and meetings
- Development of a CIF web page

Goal – Establish on-going communication with agencies, organizations and political entities whose functions and interests interface with CIF

Specific Actions Taken:

- CIF employed legislative advisor
- CIF Develops Handbook for School Board members
- CIF presents at CSBA's (school boards') annual conference
- Increased contact and working with the California Department of Education
- Increased coordination with other statewided education organizations
- State CIF Staff meeting regularly with key members of the Legislature
- Development of a CIF Handbook for legislators
- Provide information including CIF newsletter to Legislators

Goal – Achieve equity in high school athletics and CIF governance

Specific Actions Taken:

- Equity Committee developed to advise on policy
- CIF Handbook for Gender Equity distributed to all schools in 1999 and revised in 2003
- Developed Equity Complaint process and form for stakeholders
- CIF Representation on the California Legislatures Title IX Commission

State CIF staff now work with and have open lines of communication with the NOW, California NOW and the Women's Law Center

Goal – Promote the awareness and understanding of Health and Safety issues facing high school athletics

Specific Actions Taken:

- Health and Safety Committee comprised of 14 members, 12 who are practicing doctors and Certified Athletic Trainers
- Committee authored and developed 50+ bulletins on health issues. Copies distributed to every school in 1999 and updated and revised 2-3 times a year.
- Co-Sponsored Steroid Summit

Goal – Promote economic viability of high school athletics

Recommendations:

- Eliminate deficit spending by CIF
- Review marketing plans and work done by outside group
- Reduce dependence upon corporate sponsorship for operating budget
- Balanced State CIF Budgets
- Economic Viability Committee to advise state on issues/actions
- State CIF in-house marketing program
- Revised criteria for new events which would reaffirm CIF values and increase income

- Executive Committee authorized hiring of IEG as an outside expert to make recommendations to best serve the needs of the sections and statewide organization
- Federated Council passes revised statewide Marketing Plan in May 2004

Goal – Ensure the quality of officiating of high school athletic contests

Specific Actions Taken:

- Development of the officials accreditation program to ensure that associations are educating and training officials. 150+ associations
- Expansion of the Rules Interpreters rules/instructional programs with statewide meeting in seven sports for associations
- Using only accredited associations for both section and state playoffs

Attachment A

BROWN ACT

I. Background

The Ralph M. Brown Act (hereinafter Brown Act), California Government Code section 54950, guarantees the public's right to attend and participate in open forum meetings of local legislative bodies because of the vital role such legislative bodies play in bringing participatory democracy to the citizens of the State of California. As such, local legislative bodies are generally required to hold meetings in open forum. However, the Brown Act also recognizes the need for these bodies to meet in private in order to carry out their responsibilities.

The purpose of this appendix is to provide both CIF officials, and those who participate in the forums of CIF legislative bodies, with a comprehensive summary of the Brown Act and its application to the CIF.

II. The Brown Act Applies to Formal CIF State, Section, and League Meetings

California Education Code section 33353(a)(2) provides that the CIF must implement the following policy:

Require that all league, section, and state meetings affiliated with California Interscholastic Federation be subject to the notice and hearing requirements of the Ralph M. Brown Act (Chapter 9 commencing with Section 54950 of Division 2 of the Title 5 of the Government Code).

The Brown Act mandates that all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter (Govt. Code/54953). A legislative body is defined as the governing body of a local agency or any other local body created by state or federal statute or any commission, committee, board, or other body of a local agency, whether permanent or temporary, decision making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body [Govt. Code 54952(a) and (b)]. In addition, the Brown Act defines a meeting as any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.

Accordingly, CIF State, Section, and League meetings, conducted and ruled upon by a majority of the members of their respective legislative bodies must be conducted in accordance with the Brown Act which requires such meetings to be open and public.

III. The Brown Act Does Not Apply to Advisory Committee or Public Meetings Attended by Members

Advisory committees that are comprised of less than a majority of the members of the legislative body are not subject to the Brown Act unless the advisory committee is a standing committee charged with continuing subject matter jurisdiction or whose meeting schedule is fixed by charter, ordinance, resolution, or formal action of the legislative body [Govt. Code/54952(b)]. Further, a majority of the members of a legislative body may attend community gatherings, public meetings, or purely social events without violating the provisions of the Brown Act, provided that such attendees do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency (Govt. Code/54952).

IV. The Brown Act Requires that the Meetings Agenda be Posted and Shall be Mailed Upon Request

The legislative body shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, at least 72 hours before the meeting. The agenda shall specify the time and location of the meeting and shall be posted in a location that is freely accessible to members of the public. No action or discussion shall be undertaken on any item not appearing on the posted agenda but a member may direct staff to place a matter of business on a future agenda.

However, the legislative body may take action on items of business not appearing on the posted agenda under the following conditions: an emergency situation determined by a majority vote; a need to take immediate action determined by a two-thirds vote of the members present, or, if less than two-thirds of the members are present, by a unanimous vote; or that the item was continued to the meeting at which action is being taken (Govt. Code/54955.2). Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided for by this section (Govt. Code/54954). Every agenda shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2 (Govt. Code/54954.3). In addition, members of the public shall not be required to register, provide any information, or fulfill any condition precedent to their attendance at an open and public meeting. If any such information is requested, such a request shall clearly state that providing such information is voluntary, and that all persons may attend the meeting regardless of whether or not such information is provided (Govt. Code/54953.3).

The legislative body shall send a copy of the meetings agenda, not prior to the day of the meeting, to any person making a written request for a copy of the agenda provided that

the meeting is subject to the Brown Act. A fee for mailing the agenda may be charged but shall not exceed the cost of providing the service. The actions of the legislative body taken at the meeting for which the copy of the meetings agenda was requested will not be invalidated if the person requesting a copy fails to receive it (Govt. Code/54953.1).

V. The Brown Act Permits the Public to Tape Record Meetings that are Open and Public

Persons attending an open and public meeting of a legislative body may record the proceedings with an audio or video tape recorder unless the legislative body reasonably determines that the recording constitutes a persistent disruption of the proceedings. An audio or video tape record of an open and public meeting made by the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 commencing with Seciton 6250 of Division 7 of Title 1), but may be erased or destroyed within 30 days of the recording. The legislative body shall also permit the broadcast of its open and public meetings unless the legislative body reasonably determines that the broadcast constitutes a persistent disruption of the proceedings (Govt. Code/54953.5).

VI. The Brown Act Permits Legislative Bodies to Meet in Closed Session

The legislative body may meet in closed session when reviewing matters involving the following:

License/Permit Determination (Govt. Code/54956.7); Conference with Real Property Negotiators (Govt. Code/54956.8); Conference with Legal Counsel - Existing and Anticipated Litigation [Govt. Code/54956.9 (a) and (b)]; Liability Claims (Govt. Code/54956.95); Threat to Public Services or Facilities and Public Employee Appointment, Evaluation and Discipline (Govt. Code/54957); Conference with Labor Negotiators (Govt. Code/54957.6); Case review/Planning (Govt. Code/54957.8); Report involving Trade Secret and Hearings (Health & Safety Code/1461, 32106, and 32155; Govt. Code 37606 and 37624.3); and a Charge or Complaint Involving Information Protected by Federal Law (Govt. Code/54956.86).

Action taken in closed session shall be publicly reported by the legislative body in accordance with the provisions of this section (Govt. Code/54957.1). The legislative body may designate a staff member to attend each closed session to keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book is not a public record subject to inspection pursuant to the California Public Records Act.

VII. The Brown Act Does Not Apply to CIF State and CIF Section Hearings and Appeals

The Family Educational Rights and Privacy Act (FERPA) restricts access to student educational records [20 U.S.C./1232(a)]. In addition, sections 49060-49079 of the California Education Code were enacted to maifest compliance with FERPA's statutory

requirements concerning the privacy of student records. Moreover, CIF State and CIF Section Hearings are not meetings as defined by Govt. Code/54952.2(a) because such hearings are not conducted or ruled upon by a majority of the members of a legislative body. Rather, such hearings are held and conducted by either a single hearing officer or a hearing panel which are randomly selected for each individual hearing. Therefore, the Brown Act does not apply to CIF State and CIF Section hearings because such hearings may involve the presentation of confidential student information and are not conducted in a manner subject to the Brown Act.

Attachment B

EQUITY COMPLAINT AND APPEAL PROCEDURE

The following is a model for schools, leagues and Sections which describes a process for responding to a grievance filed by a student, employee, parent/guardian, or general public, alleging gender discrimination under the Title IX regulation. Districts are required to have a Title IX coordinator who should be utilized to resolve complaints at the local level.

COMPLAINT PROCEDURE FOR SCHOOLS AND DISTRICTS

Complaints related to sports equity should be resolved at the level closest to the school site. First, at the local school district, the person who has a concern should speak with district administrators or the local Title IX coordinator. The Title IX coordinator's role is to investigate local complaints of gender discrimination or refer it to the appropriate level (if the complaint is a league or Section problem, the appeal should be directed to that league or Section for initial resolution.) Districts are required to distribute or post the name, business address and telephone number of the Title IX coordinator. Investigations of athletic programs are frequently difficult, lengthy, and sometimes expensive primarily because of the considerable amounts of information that must be collected, analyzed and evaluated to determine compliance. The decision regarding compliance involves determining which benefits and services are provided to males and which are provided to females, whether there are any differences between benefits and services for males and females, whether these differences have a negative impact on athletes of one gender, and thus, may result in noncompliance.

1. DEFINITION AND INTERPRETATION

- A. Students, parents, district employees, and the general public may use this complaint procedure.
- B. Any claim by a student, parent, general public, or employee that there has been a violation or misinterpretation of Title IX shall be a gender equity complaint.
- C. The term "complainant" means any student, parent, from the general public, or employee filing a complaint.
- D. The term "days" means any calendar day, except Saturday, Sunday or legal holidays.
- E. The filing or service of any notice shall be timely if it bears a postmark of the U.S. mail, or a date stamp from the responsible agency, within the time period.
- F. The time limits provided in this complaint procedure shall be strictly observed, but may be extended by written mutual agreement between the complainant and the body investigating the complaint.

- G. In computing any period of time prescribed or allowed by procedures herein, the date of the act, event, or default for which the designated period of time begins to run shall not be included. The last day of the period as computed shall be counted, unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the end of the next day, which is not a Saturday, Sunday, or legal holiday.
- H. The report of findings and proposed resolution at all levels, shall not conflict with state law and local policy governing employee discipline.
- I. The services of a fact finder are available to any level to which the appeal is directed, i.e., school, district, league, and Section. The CIF also encourages the use of a mediator and/or arbitrator to bring about resolution of problems.
- J. Jurisdiction means that:
 - 1. the complainant has filed a complaint within 360 days from the date of the alleged violation or from the date when the complainant knew or should have known of the violation.
 - 2. the level (district, league, Section, State) has the authority to resolve the complaint.

2. COMPLAINT PROCEDURE FOR LOCAL LEVELS

The sports-related gender equity complaint should be processed using the local School District's Uniform Complaint Procedures as adopted by the local governing board or similar process as adopted by a private school governing board. The School District Uniform Complaint Procedures should include all sports-related issues. If the complaint is a league or Section issue, the appeal should be directed to that league or Section for initial resolution. After completing all steps outlined in the district process if the complainant is not satisfied with the disposition of the complaint, the complainant may appeal as applicable to the California Department of Education, or use the procedures in Section 3 or 4 if the complaint has an effect or falls within the jurisdiction of the CIF.

NOTE: For private schools, the procedure may be an appeal to the Office For Civil Rights.

Examples of a possible local complaint may include, but are not limited to, discrepancies in the baseball vs. softball diamonds at a local school site or discrepancies between boys' and girls' locker rooms, etc.

It is noted that the Office For Civil Rights requires filing a complaint within six months of the knowledge of such a violation. Concurrent complaint filings with the Office For Civil Rights are at the discretion of the complainant.

3. COMPLAINTS TO CIF LEAGUES

The following is a model for CIF Leagues which provides a process for responding to a complaint not applicable or able to be resolved at the local school, district, or board of education levels, i.e. the matter falls within the jurisdiction of a league.

1. The complaint shall be filed with the State CIF office on a CIF form available from that office. A copy of the complaint shall be delivered to the Commissioner of that CIF Section in which the league is located. Copies shall also be forwarded to all other agencies or persons named in the complaint.
2. The CIF Section shall review the complaint for initial jurisdiction **within 10 days** and shall inform the complainant in writing as to whether or not the league/Section has jurisdiction. A copy of the Section decision on jurisdictional review shall be forwarded to the State CIF office.
3. If the league has jurisdiction, the league shall present a written report of findings and proposed resolutions, if applicable, on the complaint **within a 60-day period** from receipt of the complaint. Copies of the findings shall also be forwarded to the CIF Section and to all other agencies or persons named in the complaint. The CIF Section shall forward the league findings to the State CIF.

Examples of a possible league complaint may include, but are not limited to, discrepancies between genders in the number or quality of league awards or discrepancies in equal opportunity in the number or levels of sports.

4. APPEALS TO THE CIF SECTION

A complaint from the league level may be appealed to the CIF Section.

- A. The CIF Section shall review the complaint for initial jurisdiction and shall inform the complainant as to whether or not the Section/State has initial jurisdiction.
- B. If the complainant is not satisfied with a league decision, the complaint may be appealed to the Section **within 30 days** of the league's written decision being sent to the complainant.
- C. If a complaint is appealed to the CIF Section, the Section shall notify the State CIF. The Section may request that the State CIF provide a fact finder/investigator who shall be responsible for making findings of facts and proposed resolution to the Section.

- D. The Section shall present a written report of findings on the grievance **within 60 days** from receipt of said complaint. The fact finder may also assist the parties in reaching a resolution through mediation.

Examples of a possible Section complaint may include but not limited to, a discrepancy between genders involving Section season of sport, awards, tournament facilities and/or locations, etc.

5. STATE CIF APPEAL PROCESS

- A. If the complainant is not satisfied with the decision of the Section, the complainant may appeal to the State CIF **within 30 days** of the Section's decision being sent to the complainant. If the State CIF receives the appeal, the CIF shall refer the matter to a neutral mediator and/or proceed directly to a final, neutral hearing panel, which will render a decision **within 60 days**.
- B. A complaint about a decision, not related to an appeal regarding a decision of a Section under this complaint and appeal procedure, but related to a decision or practice of the Executive Director, the State staff, or directly related to any regional or State championship event, must be filed with the State Executive Director and/or the President of the Federated Council within 30 days following the decision or event. The Executive Director shall reply within 30 days of reception of the complaint. If the complainant is not satisfied with the reply, the complainant may appeal to the CIF Federated Council President within 30 days of the receipt of the reply. The CIF Federated Council President shall refer the matter to a neutral mediator, to a final neutral hearing panel or employ the procedure within Article 3, Section 34, J. A final decision will be rendered in 60 days.

(Approved February 2001 Federated Council)

6. RIGHT TO PARTICIPATE

- A. No reprisal of any kind will be taken by the Board, an administrator, or any employee of any District or CIF against any person bringing a complaint under this procedure.
- B. Exhaustion of these procedures is NOT a prerequisite to filing of complaints with the office of Civil Rights. The grievant may at any time during or concurrently with this procedure, file a complaint with the Office For Civil Rights or with the California Department of Education.

It is noted that the Office For Civil Rights requires filing a complaint within six months of the knowledge of such a violation. Concurrent complaint filings with Office For Civil Rights are at the discretion of the complainant.

ALL LEVELS (SCHOOLS, LEAGUES, AND SECTIONS) MUST DEVELOP PROCEDURES WHICH ENSURE THAT ALL INVOLVED PARTIES, INCLUDING THE COMPLAINANT, HAVE THE OPPORTUNITY TO PROVIDE EVIDENCE, TESTIMONY, AND INFORMATION, AS NEEDED. PROCEDURES SHOULD ALSO INCLUDE PROVISIONS FOR WRITTEN NOTICE OF HEARINGS AND OF THE FORMAT IN WHICH ANY HEARING WILL BE HELD.