

Date of Hearing: April 7, 2026

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Mike Fong, Chair

AB 1928 (Fong) – As Introduced February 13, 2026

[Note: This bill is double referred to the Assembly Committee on the Judiciary, where the Committee will hear it as it relates to issues under its jurisdiction.]

SUBJECT: Sex equity: sexual harassment complaints

SUMMARY: Amends the postsecondary education institution's grievance procedures for sexual harassment complaints filed by a student against an employee or another student, to allow for up to two individuals, a support person and an advisor, to accompany the student and/or respondent during any stage of the grievance process including, but not limited to: reporting, investigating, hearing, sanctioning, or any informal resolution (if applicable).

EXISTING LAW: *Federal.*

- 1) No person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance except for specified circumstances including membership of fraternities and sororities (United States Code Title 20, Chapter 38, Section 1681... colloquially known as Title IX).
- 2) Outlines the required response pursuant to Title IX, of a postsecondary higher education institution when the institution is made aware of an alleged sexual harassment incident on campus. The regulations include a requirement for a formal complaint, a grievance procedure for an investigation into whether the incident based on a standard of evidence occurred, a hearing by which advisors are provided an opportunity to cross-examine, and a method of appealing the outcome of the grievance process (Federal Code of Regulations Title 34, Subtitle B, Chapter 1, Subpart D, Section 106.45).
- 3) Defines sexual harassment as conduct on the basis of sex that satisfies at least one of the following:
 - a) An employee of the postsecondary education institution conditions aid, benefit, or services to a recipient on the individual's participation in unwelcome sexual conduct;
 - b) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; and,
 - c) Sexual assault, dating violence, domestic violence, and stalking, as defined in the United States Code (Federal Code of Regulations, Title 34, Subpart D, Section 106.30).

State.

- 1) Establishes the policy for the State of California that all persons should enjoy their postsecondary education free from discrimination regardless of their sex. Requires each

postsecondary education institution in the state to provide a written policy on sexual harassment (policy), including information on the complaint process, on the institutions website. The policy is to include information on the specific rules and procedures for reporting charges of sexual harassment and the available remedies and resources available to survivors both on and off campus. A copy of the policies shall be:

- a) Displayed in a prominent location, as defined, in the main administrative building or in another area on the campus or school site;
 - b) Provided to students during any orientation program for new students at the beginning of each quarter, semester, or summer session;
 - c) Provided to each faculty member, administrative staff, and all member of the support staff at the beginning of each school year or at the time the employee is hired;
 - d) Included in any publication of the institution that includes the comprehensive rules, regulations, procedure, and standards of conduct for the institution (EDC Section 66281.5).
- 2) Requires the governing board or body of each postsecondary institution in the state, as a condition of receiving state funding, to comply with an array of conditions pertaining to protecting students from sexual harassment protections and to provide students with procedural protections relating to claims of sexual harassment (EDC Section 66281.8).
- 3) Defines sexual harassment and sexual violence as the following:
- a) “Sexual harassment” as sexual battery, sexual violence, sexual exploitation, and unwelcomed sexual advances request for sexual favors and other verbal, visual, or physical conduct of a sexual nature made by someone from or in the work or educational setting in which specific conditions are met. Clarifies sexual harassment of students is a form of sex discrimination prohibited by the Equity in Higher Education Act; and,
 - b) “Sexual violence” as a physical sexual act perpetrated against a person without the affirmed consent of the survivor, as defined. Physical sexual acts include rape, sexual battery, sexual exploitation, prostituting another person, trafficking another person, recording images of the person during the act without consent, distributions of said images without consent, or viewing a person’s intimate moments in which privacy is expected without consent, as defined (EDC Section 66262.5).

FISCAL EFFECT: Unknown.

COMMENTS: *Need for the measure.* Sexual harassment continues to be a pervasive issue on college and university campuses. A recent study published in the *Journal for American College Health*, found women who attend college experienced sexual violence at a greater rate than those who do not enroll in college; and, women who live on campus experience a higher rate of sexual violence than those who commute to campus.¹ Each year, colleges and universities are required by federal law to transmit data on crimes which occur on – and near – campus. In the latest

¹ <https://www.tandfonline.com/doi/full/10.1080/07448481.2025.2563024#d1e208>

reports available, in 2023 there were 1,770 incidents of sexual assault, dating violence, domestic violence, and stalking on or near California colleges and universities.² Since 2014, the U.S. Department of Education and the California State Legislature have sought to curtail and lessen the impacts of sexual harassment and sexual violence on educational access and equity. In 2011, the Obama Administration issued a “Dear Colleague Letter” reframing a college and universities responsibilities under the Patsy Mink Equal Opportunity in Education Act (Title IX) to include preventing sexual harassment and sexual violence on campus.³ Since 2011, the procedures for how colleges and universities should address and mitigate sexual harassment and sexual violence have evolved with the most recent iteration in the form of federal regulations in 2020.⁴

To assist a student through the Title IX proceedings and California Education Code proceedings, an institution of higher education is required to provide a student with an advisor. The advisor is meant to act like a legal guide for the student, helping to navigate the various stages of the grievance process as the college determines whether the complaint of sexual harassment or sexual violence meets the evidentiary standard to warrant a legally obligated response. However, the advisor is a legal counsel or a person versed in the procedures of the campus and not an emotional support character for the student. What began as a trauma – informed process to help maintain equal access to education for survivors has morphed into a court proceeding with cross examinations and live hearings often leading to the re-traumatization for survivors.⁵

To mitigate this experience for both the complainant and respondent, AB 1928 (M. Fong) is proposing both parties be afforded the right to have a support person present throughout the proceedings.

According to the author, “AB 1928 strengthens protections for all parties in a Title IX proceedings by ensuring that they have equal access to both: an advisor who can guide them through the procedural aspects of the process and a support person who can assist them with emotional needs. The Title IX grievance process is complex and can be traumatizing to victims and respondents. They should not be forced to choose between procedural guidance and emotional support. This is a narrow but important change that supports a trauma-informed approach to the sexual assault grievance process.”

Federal vs State sexual harassment complaint resolution proceedings. In the wake of the Trump Administration’s proposal to codify the 2020 Title IX regulations, concerns were raised by advocates and higher education institutions as to the unintended harm the regulations could inflict upon students, faculty, and staff. The National Women’s Law Center wrote the regulations, “explicitly seeks ‘a reduction in the number of Title IX investigations’ schools undertake by making it harder for sexual harassment victims to come forward, requiring schools to ignore victims in many instances when they do ask for help, and denying victims fair treatment when they try to use the system that is supposed to protect them.”⁶ To address the ongoing concerns with the federal regulations, then California State Senator Hannah Beth

² <https://ope.ed.gov/campusafety/Trend/public/#/answer/3/301/main?row=-1&column=-1&limit=5&limitValues=CA>

³ <https://www.womenssportsfoundation.org/advocacy/history-of-title-ix/>

⁴ <https://www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination/sex-discrimination-overview-of-law>

⁵ <https://journals.sagepub.com/doi/epub/10.1177/15570851221105853>

⁶ <https://nwlc.org/resource/devos-new-title-ix-sexual-harassment-rule-explained/>

Jackson endeavored to make Title IX the floor for the protections afforded to students on campus with the introduction and codification of SB 493 (Jackson), Chapter 303, Statutes of 2020.

According to the author, SB 493 (Jackson) was meant to “address deficiencies in state law as it concerns institutions of Higher Education, which is particularly important in light of the rampant epidemic of campus sexual assault. The bill delineates processes for schools to respond to allegations of sexual harassment and violence, including notice and posting requirements (to ensure students are aware of such processes and their rights) as well as transparent procedures for investigating complaints to ensure a fair and equitable process for all parties.”

SB 493 (Jackson) was finalized and signed by the Governor prior to the issuances of the 2020 Title IX Regulations. The new law, Section 66281.8 of the Education Code, stipulated if any of the provisions conflicted with federal law, the section would be considered inoperable. Colleges and Universities in California have interpreted this to mean that if a case falls under the jurisdiction of Title IX, it shall be processed in accordance with the 2020 regulations and if the case does not fall under the jurisdiction of Title IX, it will be processed in accordance with EDC Section 66281.8.

The primary differences between the 2020 regulations and EDC Section 66281.8 are as follows:

SB 493 Requirement	Title IX – 2020 Regulations
Applies to sexual harassment incidents involving student complainants or filers of the complaint.	Applies to sexual harassment incidents involving student and employee complainants or filers of the complaint.
Defines sexual harassment having to be severe OR pervasive for the complaint to be processed by the institution.	Defines sexual harassment as being severe AND pervasive for the complaint to be processed by the institution.
Allows for the investigation of a claim of harassment if the event transpired outside a campus-sanctioned event if there is an impact on a student’s ability to access education.	Stipulates the incident must have occurred as part of an educational activity within the United States.
Does not require live hearings in all circumstances.	Does require live hearings for any complaint.
Requires cross-examinations during hearing to occur by the hearing officer.	Allows cross-examination during a hearing to occur and for the cross-examinations to be conducted by the advisor.

Arguments in support. Equal Rights Advocates expresses the need for AB 1928 (M. Fong), “as the federal government has neglected the needs of student survivors, California has stepped up to the plate to protect them. In response to the 2020 Title IX regulations, California established its own set of procedural protections for students at state-funded colleges and universities through SB 493 (Jackson, Chapter 303, Statutes of 2020). The legislature has continued to explore options for improving campus sexual violence response in subsequent years, including in a 2024

report issued by this committee. In recognition of the potentially traumatic impact of participating in the campus grievance processes, current state law requires institutions to resolve sexual misconduct complaints in a trauma-informed manner, including by allowing all student parties to be accompanied by a support person or an advisor.¹⁷ However, in the years since this requirement was established, ERA has seen firsthand that it is not enough. As advocates that have participated in countless campus grievance proceedings, we believe that achieving a truly trauma-informed process is only possible when students have access to both an advisor and a support person rather than being limited to one or the other. Students need both a support person and an advisor to successfully navigate campus sexual misconduct adjudications.”

As one of the co-sponsors for the measure, the The Survivors Pro Bono, further explain the need for the measure, “under California state law, colleges are only required to permit one person to accompany students in proceedings: a support person or an advisor. Because of the ambiguity in current law, the implementation of this policy is unequal between California’s higher education institutions. For example, the University of California’s Sexual Violence and Sexual Harassment Policy permits parties to be accompanied by both an advisor and a support person throughout the grievance process. In contrast, the California State University’s Nondiscrimination Policy provides that each party ‘may choose to be accompanied by one advisor of their choice, who may be, but is not required to be, an attorney or a union representative.’ Other higher education institutions in California, such as Stanford University, Caltech University, University of Southern California, and Sonoma County Junior Colleges, also only allow an advisor. In our experience representing students across California, a support person typically serves an emotional support role—such as a parent, friend, or sexual assault advocate—while an advisor provides procedural help. Though both roles are not required to be afforded to each party under current state law, they are necessary for students going through the process. Students may be required to write appeals, evidentiary objections, and cross examinations as part of campus sexual violence proceedings; this quasi-judicial aspect of Title IX processes necessitates the support of an advisor. Title IX processes can also be retraumatizing for survivors going through one of the worst moments of their lives, and emotionally difficult for respondents as well. In our experience representing clients directly, the skillsets to provide support in each of these roles are drastically different, and the roles are often in conflict. Despite these two roles being so markedly different in their responsibilities, we currently force countless survivors to make an impossible choice between legal counsel and emotional support. The solution is simple: let them have access to both.”

Clarifying amendments. AB 1928 (M. Fong) does not amend the Title IX regulations, instead the measure amends Education Code Section 66281.8 to include a requirement for all postsecondary education institutions in the State of California to allow for a supportive person in addition to an advisor during each phase of the grievance process or adjudication process for a sexual harassment complaint. Both the Education Code Section 66281.8 and Title IX require a postsecondary education institution to provide a student with an advisor; however, Title IX goes a step further and states all parties should have an advisor regardless of whether the filer of the complaint is a student or not. Furthermore, Title IX is silent with regards to whether a student, faculty, or employee is permitted a support person. While it is the understanding of Committee staff, that if Title IX does not express specified intent, the State is authorized to establish a requirement to fill the gap. Therefore, one could suppose AB 1928 (M. Fong) would apply for cases involving a student complainant regardless of whether the case is adjudicated pursuant to the Title IX regulations or Education Code Section 66281.8. However, the intent of the author is to ensure all complainants and all respondents of sexual harassment cases are afforded the

opportunity of a support person and an advisor, the requirement would need to explicitly state the measure applies to both Title IX procedures and Education Code Section 66281.8 procedures; as the Education Code procedures only apply for student – student and student – faculty cases where the student is the filer.

To ensure a support person and an advisor are afforded to every party in every type of sexual harassment complaint, the Committee has suggested, and the Author has agreed to the following amendments:

- 1) *Adds the following language to AB 1928 (M. Fong):*

SEC. 2. Section 66281.10 is added to the Education Code, to read:

66281.10. (a) Notwithstanding Section 67400, in order to receive state financial assistance, as defined in Section 66263, and state student financial aid, as defined in Section 66264, the appropriate governing board or body of each postsecondary institution, as defined in Section 66281.8, shall permit the complainant and respondent of a sexual harassment complaint to have a support person, in addition to an advisor, accompany the parties of a complaint during the grievance procedure that provide for the prompt and equitable resolution of sexual harassment complaints pursuant to Section 66281.8 or Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.). The postsecondary institution shall permit the complainant and respondent of a sexual harassment complaint to have a support person of their choice and an advisor of their choice accompany the complainant or respondent during any stage of the process, including, but not limited to, reporting, investigation, hearing, sanctioning, or any informal resolution.

(b) The support person identified in subdivision (a) by the complainant or respondent shall not act in the role of advisor as authorized by Section 66281.8 and Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.).

(c) This section does not require a postsecondary institution to provide a support person for a party of a sexual harassment complaint during the adjudication of the complaint pursuant to Section 66281.8 or Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.).

- 2) *Amends Education Code Section 66281.8 subdivision (b), paragraph (4), subparagraph (A), clause (xvii) to read as follows:*

(xvii) They shall afford each student party the opportunity to have both a support person of their choice and an advisor of their choice accompany the student party during any stage of the process, including, but not limited to, reporting, investigation, hearing, sanctioning, or any informal resolution. This clause shall be implemented consistent with Section 66281.10.

- 3) *Amends Education Code Section 66281.8 subdivision (b), paragraph (4), subparagraph (A), clause (xviii) to read as follows:*

(xviii) They shall advise student parties of their right to consult with an attorney, at their own expense, at any stage of the process if they wish to do so. An attorney may serve as a support person or ~~adviser~~ advisor pursuant to clause (xvii).

4) *Makes technical and conforming changes.*

REGISTERED SUPPORT / OPPOSITION:

Support

Access Reproductive Justice
California State University, Office of the Chancellor
Equal Rights Advocates
Public Counsel
The Survivors Pro Bono
University of California Office of the President

Opposition

None on file.

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