

CONCURRENCE IN SENATE AMENDMENTS

AB 2212 (Bauer-Kahan)

As Amended August 21, 2026

Majority vote

SUMMARY

Amends the Education Code to include definitions of technology-facilitated sexual harassment and digitized sexually explicit materials beginning on August 1, 2027.

Senate Amendments

- 1) Removes the requirement for postsecondary education institutions to update any intuitional policy pertaining to sexual harassment to include a prohibition on the public disclosure of the creation or generation of digitized sexually explicit material. Removes the requirement for any intuitional policy on sexual harassment to state that any nonconsensual disclosure of digitized sexual explicit material is sexual exploitation and a violation of the institution's policy.
- 2) Removes the requirement for postsecondary education institutions to update their annual sexual harassment prevention training to include information on technology-facilitated sexual harassment.
- 3) Removes the new definitions of cyber sexual bullying, cyber stalking, doxing, and written consent.
- 4) Repeals and replaces Education Code Section 66262.5 on August 1, 2027 with expanded definitions for the Equity in Higher Education Act, including the Sex Equity. Defines the following terms: affirmed consent; depicted individual; digitization, digitized sexually explicit material; sextortion; sexual battery; sexual conduct; sexual exploitation; sexual harassment; and, technology-facilitated sexual harassment.

COMMENTS

Technology – facilitated sexual harassment on college campuses. A study published in the *Journal of Interpersonal Violence*, presented research on college-age women's experiences with technology – facilitated sexual harassment. The study found in the online digital space 84% of college-age women received sexually inappropriate messages and 74% received sexist comments. Survivors + Allies published preliminary findings of 2025 Institutional Review Board approved research study on the impacts of technology – facilitated sexual harassment on college students at the CCC, CSU, and UC. The preliminary findings included:

- 1) One in seven students who identified as experiencing sexual harassment reported experiencing online sexual harm; and,
- 2) 70% of those survivors never reached out to their campus for support.

The prevalence of college – age individuals experiencing technology – facilitated sexual harassment aligns as this age group are the predominately users of digital platforms and generative artificial intelligence (GenAI) tools. However, higher education institutions have been

slow to update policies and procedures regarding the permissive use of digital online platforms and GenAI tools by students and employees on campus.

Patsy Mink Equal Opportunity in Education Act (Title IX) and technology-facilitated sexual harassment. The current regulations governing the implementation of the Title IX for postsecondary education institutions does not include a definition of technology-facilitated sexual harassment. The regulations require a postsecondary education institution to respond to an incident of sexual harassment if it occurs in an educational program or activity in the United States, if the institution had substantial control over both the respondent and the context in which the sexual harassment occurs (34 US Code of Regulations Part 106, Subpart D, Section 106.44). By this definition, one could assume Title IX does not include digital platforms or GenAI tools since the institutions does not have "substantial control" over the student's use.

In January 2025, the U.S. Department of Education published guidance on "Online or Digital Sexual Harassment under the 2020 Title IX Regulations." The guidance stated, "Title IX requires a school to address sexual harassment in its education program or activity, including harassment that occurs online or using technology." The guidance further contends "harassment can be carried out by school staff, a student, or another person. It can occur in-person or online, including emails, texts, or messages, apps, or other technologies." Examples of online harassment that would be covered by Title IX according to the guidance, includes:

- 1) Unwelcome conduct on social media platforms that is sexually demeaning or containing threats of violence;
- 2) Nonconsensual texting, posting, or otherwise sharing of intimate images of a person whether real, altered, or created through an AI generated tool; and
- 3) Stalking using technology; which includes, creating fake social media accounts to harass another individual.

Based on the definitions and examples provided in the United States Department of Education's January 2025 Title IX guidance, the majority of the provisions in the measure should already be implemented by postsecondary education institutions in California. However, concerns have been raised that the federal definition of sexual harassment is too narrow in scope and does not cover every incident of sexual harassment on campus. Therefore, this measure is a necessary step in providing additional protections from technology-facilitated sexual harassment that are not currently provided within the scope of Title IX nor in the California's Higher Education Sex Equity Act.

Please see the policy committee analysis for a full discussion of this bill.

According to the Author

According to the author, "the definition of 'sexual harassment' in California's Education Code was developed before generative artificial intelligence (GenAI) tools became widely available. As a result, higher education institutions lack uniform standards for defining, investigating, and remediating technology-facilitated sexual harassment. AB 2212, the HEAR Survivors Act, updates the definition of 'sexual harassment' in the Education Code to account for modern digital technologies. Updating these terms in the Education Code promotes consistent campus responses, reduces stigma, and reinforces that digital abuse is no less serious than offline misconduct."

Arguments in Support

Survivors+Allies express their support of the measure because, "as generative artificial intelligence (GenAI) becomes widely available across California's college campuses, image generation tools are increasingly putting women and LGBTQIA+ students at risk of technology-facilitated sexual harassment. Our 2025 study of college students found that 70% of survivors of online sexual harm did not seek support from their home institutions, reporting that they "felt [they] would not be taken seriously" and were "not aware [they] could reach out to a resource." The definition of "sexual harassment" in California's Education Code was developed before the widespread use of GenAI tools, and does not explicitly address harassment that occurs through, or is facilitated by, digital technologies. AB 2212 updates the definition of "sexual harassment" in the Education Code to account for modern digital technologies and requests that California's higher education institutions adopt and publish policies addressing technology-facilitated sexual harassment. Clear standards, transparent reporting mechanisms, and modernized definitions are essential to ensuring that students experiencing sexual harassment can access meaningful support."

Arguments in Opposition

Foundation for individual rights and expressions (FIRE) states concerns with the measure because "California's definition of hostile-environment sexual harassment in education, which AB 2212 reincorporates in section 66262.5(m)(1)(c), falls well short of this standard. It reaches "verbal, visual, or physical conduct of a sexual nature" that has the "purpose or effect" of having a "negative impact" upon a student's work or creating an "offensive" work or educational environment. The Biden Administration proposed a similar definition in its Title IX regulations. All nine Supreme Court justices agreed that it should be enjoined in light of First Amendment and statutory concerns. The definition in AB 2212 is even weaker because it doesn't require that the speech in question be objectively offensive. Additionally, the "negative impact" standard is far short of the "effectively deny" standard. The definition also does not require that the conduct be severe and pervasive, nor does it define an "intimidating, hostile, or offensive environment." This leaves students guessing about what sex-related speech crosses the line. Speech that is merely annoying or controversial might qualify as harassment — even if it's relevant to an academic discussion — because it temporarily distracts someone from their coursework or makes them less interested in taking a particular class."

FISCAL COMMENTS

According to the Senate Appropriations Committee on the version of this bill amended on August 13, 2026:

- 1) The UC estimates General Fund implementation costs in the mid-hundreds of thousands annually. This estimate assumes that an additional .5 FTE at each location at a cost of \$700,000 (\$75,000 x 10 campuses) would be required to support increased workload and administrative costs to manage complex dual-track case evaluations, as compliance officers must manually vet and cross-reference every report against existing federal frameworks, expanded state statutory criteria, and campus policies. The UC also notes there would be modest one-time resource and financial impacts for staff training on new and expanded definitions, required updates to campus orientations and training modules, and actions required to ensure accessibility and appropriate translations.

- 2) The CSU estimates one-time General Fund costs in the low hundreds of thousands of dollars for various administrative activities necessary to implement the bill's provisions, including the updating of its systemwide nondiscrimination policy to include the new definitions, and ensuring that student conduct policies regarding bullying cover what is specified in the bill. The CSU also estimates minor, ongoing costs for providing information related to bullying, harassment, and intimidation at new student orientations.
- 3) The Chancellor's Office for the California Community Colleges estimates that the costs to community college districts would likely be minor.

VOTES:

ASM HIGHER EDUCATION: 9-0-1

YES: Fong, DeMaio, Boerner, Jeff Gonzalez, Jackson, Muratsuchi, Patel, Sharp-Collins, Tangipa

ABS, ABST OR NV: Celeste Rodriguez

ASM PRIVACY AND CONSUMER PROTECTION: 15-0-0

YES: Bauer-Kahan, Macedo, Bryan, DeMaio, Hoover, Irwin, Lowenthal, McKinnor, Ortega, Patterson, Pellerin, Petrie-Norris, Ward, Wicks, Wilson

ASM APPROPRIATIONS: 11-0-4

YES: Wicks, Aguiar-Curry, Calderon, Caloza, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache

ABS, ABST OR NV: Hoover, Dixon, Ta, Tangipa

ASSEMBLY FLOOR: 78-0-2

YES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Chen, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Garcia, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

ABS, ABST OR NV: Muratsuchi, Celeste Rodriguez

UPDATED

VERSION: August 21, 2026

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FN: 0004366