
THIRD READING

Bill No: AB 772
Author: Lowenthal (D), et al.
Amended: 8/29/25 in Senate
Vote: 21

SENATE EDUCATION COMMITTEE: 6-1, 6/25/25
AYES: Pérez, Cabaldon, Choi, Cortese, Gonzalez, Laird
NOES: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-1, 8/29/25
AYES: Caballero, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto
NO VOTE RECORDED: Dahle

ASSEMBLY FLOOR: 79-0, 6/2/25 - See last page for vote

SUBJECT: Cyberbullying: off-campus acts: model policy

SOURCE: Author

DIGEST: This bill requires the California Department of Education (CDE), on or before June 1, 2026, and in consultation with relevant stakeholders, to adopt a model policy on how to address cyberbullying that occurs outside of school hours, as specified. This bill requires local educational agencies (LEAs) to adopt the resulting policy or a similar policy developed with local input.

ANALYSIS:

Existing law:

- 1) Declares that all students have the right to participate fully in the educational process, free from discrimination and harassment, and that harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States

Constitution. Also expresses the intent of the Legislature that each public school undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of pupils to equal educational opportunity. (Education Code (EC) § 201)

- 2) Prohibits discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including immigration status, in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance, or enrolls pupils who receive state student financial aid. (EC § 220)
- 3) Declares that every person may freely speak, write, and publish his or her sentiments on all subjects, being responsible for the abuse of this right, and that a law may not restrain or abridge liberty of speech or press. (California Constitution, Article 2, Section 2)
- 4) States the policy of the State of California to ensure that all LEAs continue to work to reduce discrimination, harassment, violence, intimidation, and bullying. It is further the policy of the state to improve pupil safety at schools and the connections between pupils and supportive adults, schools, and communities. (EC § 234)
- 5) Defines “bullying” as any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils, as defined, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:
 - a) Placing a reasonable pupil or pupils in fear of harm to that pupil’s or those pupils’ person or property;
 - b) Causing a reasonable pupil to experience a substantially detrimental effect on the pupil’s physical or mental health;
 - c) Causing a reasonable pupil to experience substantial interference with the pupil’s academic performance; and

- d) Causing a reasonable pupil to experience substantial interference with the pupil's ability to participate in or benefit from the services, activities, or privileges provided by a school.
- 7) Requires LEAs to adopt policies and procedures for preventing acts of bullying, including cyberbullying, by December 31, 2019. (EC § 234.4)
- 8) Requires the CDE to develop, and post on its website, a model handout describing the policies addressing bias-related discrimination, harassment, intimidation, and bullying in schools. (EC § 234.3)
- 9) Requires school districts and county offices of education (COEs) to develop a comprehensive school safety plan for its schools and encourages all plans, to the extent that resources are available, to include policies and procedures aimed at the prevention of bullying, including cyberbullying. (EC § 32282)
- 10) Requires the CDE to develop and post on its website an online training module to assist all school staff, administrators, parents, students, and community members in increasing their knowledge of the dynamics of bullying and cyberbullying. (EC § 32283.5)

This bill:

- 1) Requires the CDE, on or before June 30, 2026, and in consultation with relevant stakeholders, to develop a model policy on how to address reported acts of cyberbullying that occur outside of school hours, provided that, when engaged in outside of the campus, the act of cyberbullying is sufficiently severe or pervasive to have the actual and reasonably expected effect of creating an intimidating or hostile educational environment.
 - a) Requires that the model policy clarify that LEAs are authorized, but not required, to address those acts.
- 2) Provides that in the development of the model policy described in #1, the CDE, and the relevant stakeholders may use existing resources and frameworks, including, but not limited to, the Multi-Tiered System of Supports (MTSS).
- 3) Requires that the model policy be appropriate for adoption for LEAs that serve pupils enrolled in any of grades 4 to 12, inclusive.

- 4) Requires CDE, in the development of the model policy, to consider establishing guidance on the factors necessary to determine what constitutes an intimidating or hostile educational environment, as well as the factors that demonstrate severity and pervasiveness.
- 5) Requires LEAs, on or before July 1, 2027, to adopt a policy on how to address acts of cyber bullying occurring outside side of school hours, provided that, when engaged in outside of the campus, the act of cyberbullying is sufficiently severe or pervasive to have the actual or reasonably expected effect of creating an intimidating or hostile educational environment.
 - a) Specifies that in order to comply with this requirement, LEAs may adopt the model policy described in #1, adopt a locally adopted policy with input from stakeholders, or modify its existing policy.
- 6) Requires LEAs to post a copy of the adopted policy on its internet website, and on the websites of each of its schoolsites.
- 7) Specifies that the provisions of this bill do not impose liability on an LEA for failing to address the act of cyberbullying.

Comments

- 1) *Need for this bill.* “Bullying and harassment amongst peers in school is not a new phenomenon; however, the digital age and rise of social media has drastically changed the landscape by expanding how and when classmates communicate with one another. Bullying and harassment are no longer limited to the school day; bullies are empowered to continue their harassment through social media platforms, posts, text messages – circulating harmful or humiliating content to the pupil they are bullying or to a wider audience. After-school bullying follows the pupil back to school and into the classroom, creating a hostile environment at school.

“AB 772 requires that the California Department of Education develop a model policy aimed at addressing cyberbullying that occurs outside of school hours. This bill requires that LEAs adopt either CDE’s model policy, or develop and adopt their own policy. AB 772 will help provide districts with the necessary clarification on actions they can take to ensure all of our kids can enjoy a safe and productive learning environment, during school and after school.”

- 2) *Cyberbullying and electronic acts.* In the California Education Code, cyberbullying is defined in the broader context of bullying as bullying by way of electronic act. Electronic acts can originate on or off the schoolsite and include, but are not limited to, the following:
- a) A message, text, sound, video, or image.
 - b) A post on a social network internet website, including, but not limited to:
 - i) Posting to or creating a burn page;
 - ii) Creating a credible impersonation of another actual student knowingly and without consent;
 - iii) Creating a false profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile;
 - c) An act of cyber sexual bullying. Cyberbullying is willful and involves recurring or repeated harm. According to StopBullying.gov, some of the most common cyberbullying tactics include:
 - i) Creating a false profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile;
 - ii) Threatening to hurt someone or telling them to kill themselves;
 - iii) Posting a mean or hurtful picture or video;
 - iv) Posting mean or hateful names, comments, or content about any race, religion, ethnicity, or other personal characteristics online; and
 - v) Doxing, an abbreviated form of the word documents, is a form of online harassment used to exact revenge and to threaten and destroy the privacy of individuals by making their personal information public, including addresses, social security, credit card and phone numbers, links to social media accounts, and other private data.
- 3) *Existing policies and procedures on bullying and cyberbullying.* California law requires LEAs to adopt policies and procedures for preventing acts of

bullying, including cyberbullying. These procedures and policies must include, among other things:

- a) A process for receiving and investigating complaints;
- b) A system to maintain documentation of complaints and their resolution; and
- c) Retaliation protections for complainants.

LEAs are also required to post their adopted anti-cyberbullying policies on their websites alongside information on social media bullying that includes references to possible forums for social media bullying. CDE monitors compliance with these requirements as part of its Categorical Program Monitoring (CPM) process.

- 4) *The First Amendment and Student Speech.* Current law authorizes school administrators to hold students accountable when they have engaged in bullying or other conduct violations at school or during school activities. This authority includes cyberbullying or bullying by an electronic act originating on or off the school site. Organizations representing school administrators and school boards have voiced concerns about the potential free speech and First Amendment implications that may arise when schools seek to discipline students for speech that occurs off campus and outside of school hours. Further, they argue that by requiring LEAs to adopt the proposed policy, this bill would expand the scope, responsibility, and reach of LEAs beyond their statutory and regulatory authority.

In the landmark Supreme Court decision of *Tinker v. Des Moines Independent Community School District* (1969), the Supreme Court held that while neither teachers nor students “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate,” a school may regulate *on-campus* speech if that speech materially disrupts class work or involves substantial disorder or invasion of the rights of others.

This framework was more recently applied to *off-campus* online speech in *Mahanoy Area School District v. B. L.* (2021) when the Supreme Court held that a student’s off-campus posts on social media criticizing her school and containing vulgar language were not subject to regulation by the school. In this case, a student expressed her frustration on social media after being not selected for her school’s varsity cheerleading squad. She made a post that was viewable to her friends that included an expletive statement calling out her

“school,” “cheer,” and “everything.” Although the social media post was made off campus, the student’s school suspended her from the junior varsity cheerleading squad for the upcoming season, arguing that she had violated school rules banning profanity. The Supreme Court held that the student’s statement, although unpleasant, constituted First Amendment-protected speech, as it did not materially disrupt classwork, involve substantial disorder, or result in an invasion of the rights of other students. Notably, the majority opinion issued by the Court maintained that “the school’s regulatory interests remain significant in some off-campus circumstance.” The opinion also notes examples of these exceptional or special circumstances:

- a) Serious or severe bullying or harassment targeting particular individuals;
- b) Threats aimed at teachers or other students;
- c) The failure to follow rules concerning lessons, the writing of papers, the use of computers, or participation in other online school activities; and
- d) Breaches of school security devices, including material maintained within school computers.

These exceptional circumstances came into play in a subsequent ruling from the U.S. Court of Appeals for the 9th Circuit in San Francisco. In *Chen v. Albany Unified School District* (2022), the panel of judges unanimously held that *Mahanoy* still provided schools the discretion to hold students accountable for cyberbullying that occurred off campus. In this case, the panel upheld a California school district’s decision to discipline two students over an off-campus social media account and posts that included racist imagery and comments targeting their Black classmates. They determined that the posts in question would be reasonably viewed as alarming, both to the students targeted in the violently themed posts and to the school community more generally, thus resulting in a material disruption of class work and substantial disorder. As such, the school’s intervention and disciplinary actions were warranted and appropriate.

Case law underscores a school’s authority and special interest in holding students accountable for off campus speech like cyberbullying, however, it also recognizes that particular attention must be paid to the factors surrounding the speech at hand when schools exercise that authority. It also underscores the

importance of determining whether the speech at hand has a material, detrimental impact on, or nexus to, the school environment.

This bill would ultimately require LEAs to adopt a policy on how to address acts of reported cyberbullying occurring outside of school hours, provided that, when engaged in outside of the campus, the act is sufficiently severe or pervasive to have the actual and reasonably expected effect of creating an intimidating or hostile educational environment. This bill also maintains that schools are *authorized, but not required* to address such acts of cyberbullying.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- The CDE estimates one-time General Fund costs of \$371,000 and 2.0 positions to support the development, posting, and distribution of the model policy required by this bill.
- This bill could result in one-time Proposition 98 General Fund costs, potentially in the low hundreds of thousands of dollars, for LEAs to adopt and post a cyberbullying policy on their websites. These activities are likely deemed to be a mandate by the Commission on State Mandates which could create pressure for the state to reimburse the associated costs to LEAs or provide additional funding through the K-12 Mandate Block Grant.

SUPPORT: (Verified 8/29/25)

American Association of University Women - California

EdVoice

Gateway Community Charters

Lighthouse Community Charter School

Los Angeles County Office of Education

Partnership for Los Angeles Schools

TechNet

United Administrators of Southern California

OPPOSITION: (Verified 8/29/25)

None received

ASSEMBLY FLOOR: 79-0, 6/2/25

AYES: 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, Kalra, Krell, Lackey, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

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