

Assembly Bill No. 1159

CHAPTER 182

An act to amend Sections 22584 and 22586 of, to add Section 22586.1 to, to add Chapter 22.2.6 (commencing with Section 22587) to Division 8 of, to repeal Section 22587 of, and to repeal and add Section 22585 of, the Business and Professions Code, relating to privacy.

[Approved by Governor September 10, 2026. Filed with
Secretary of State September 10, 2026.]

LEGISLATIVE COUNSEL’S DIGEST

AB 1159, Addis. Student personal information.

Existing law, the K–12 Pupil Online Personal Information Protection Act (KOPIPA), generally protects the personal information of a student enrolled in a K–12 course of instruction, defined as a “pupil,” by prescribing requirements and prohibitions applicable to an operator of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for K–12 school purposes and was designed and marketed for K–12 school purposes.

Existing law, the Early Learning Personal Information Protection Act (ELPIPA), generally protects the personal information of a child enrolled in a preschool or prekindergarten course of instruction, defined as a “pupil,” by prescribing requirements and prohibitions applicable to an operator of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for preschool or prekindergarten purposes and was designed and marketed for preschool and prekindergarten purposes.

This bill would instead apply the provisions of KOPIPA and ELPIPA to an operator, or an entity working on behalf of the operator, of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for the applicable school purposes and was designed or marketed for those purposes, as specified. The bill would, among other changes to KOPIPA and ELPIPA related to protecting the personal information of students, prohibit an operator from using covered information, as defined, including persistent unique identifiers, created or gathered by the operator’s site, service, or application to train a generative artificial intelligence system or service or develop an artificial intelligence system.

This bill would also enact the Higher Education Student Information Protection Act (HESIPA), which would generally protect the personal information of a student enrolled in a higher education institution, as defined, in a similar manner as KOPIPA and ELPIPA. The bill would make HESIPA operative on July 1, 2027.

This bill would authorize a pupil or student actually harmed by noncompliance with KOPIPA, ELPIPA, or HESIPA to bring a civil action against the noncompliant operator, as prescribed, and would require a person bringing that action to furnish a copy of the complaint to the Attorney General within 10 days after filing the action.

The people of the State of California do enact as follows:

SECTION 1. Section 22584 of the Business and Professions Code is amended to read:

22584. (a) For purposes of this chapter:

(1) “Artificial intelligence” has the same meaning as defined in Section 3110 of the Civil Code.

(2) “California Consumer Privacy Act-excluded covered information” or “CCPA-excluded covered information” means covered information that is not subject to the California Consumer Privacy Act of 2018 (Title 1.81.5 (commencing with Section 1798.100) of Part 4 of Division 3 of the Civil Code).

(3) “Covered information” means personally identifiable information or materials, in any media or format that meets any of the following:

(A) Is created or provided by a pupil, or the pupil’s parent, education rights holder, or legal guardian, to an operator in the course of the pupil’s, parent’s, education rights holder’s, or legal guardian’s use of the operator’s site, service, or application for K–12 school purposes.

(B) Is created or provided by an employee or agent of the school or local educational agency to an operator.

(C) Is gathered by an operator through the operation of a site, service, or application described in paragraph (10) and is descriptive of a pupil or otherwise identifies a pupil, including, but not limited to, information in the pupil’s educational record or email, first and last name, home address, telephone number, email address, or other information that allows physical or online contact, demographics, discipline records, test results, special education data, extracurricular activities, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric or behavioral information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, pupil identifiers, device identifiers, search activity, photographs, voice recordings, or geolocation information.

(4) “Deidentified information” means information that cannot reasonably identify, relate to, describe, be capable of being associated with, or be linked, directly or indirectly, to a particular individual, school, or household, if the operator that possesses the information does all of the following:

(A) Takes reasonable measures to ensure that the information cannot be associated with a particular individual, school, or household.

(B) (i) Subject to clause (ii), publicly commits to maintain and use the information in deidentified form and not to attempt to reidentify the information.

(ii) The operator may attempt to reidentify the information solely for the purpose of determining whether its deidentification processes satisfy the criteria of this paragraph.

(C) Contractually obligates any recipient of the information to meet the criteria described in subparagraphs (A) and (B).

(D) Applies deidentification measures consistent with those required of educational agencies and institutions under the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and implementing regulations, as determined by the local educational agency.

(E) Makes its deidentification processes available for review by the school or local educational agency that the operator serves before any use of deidentified data by the operator.

(F) To the extent the school or local educational agency that the operator serves maintains a deidentification policy or standard, applies deidentification measures in accordance with that policy or standard.

(G) If the school or local educational agency that the operator serves reviews the operator's deidentification processes under subparagraph (E), the operator shall not use, share, or retain the information as deidentified information unless that school or local educational agency determines that the operator's deidentification process is sufficient under these standards.

(5) "Generative artificial intelligence" has the same meaning as defined in Section 3110 of the Civil Code.

(6) "K–12 school purposes" means purposes that customarily take place at the direction of the K–12 school, teacher, or local educational agency or aid in the administration of school activities, including, but not limited to, instruction in the classroom or at home, administrative activities, and collaboration between pupils, school personnel, or parents, or are for the use and benefit of the school.

(7) "Local educational agency" means a school district, county office of education, charter school, or the state special schools for the blind and the deaf.

(8) "National assessment provider" means a person that develops, sponsors, or administers standardized tests.

(9) "Online service" includes cloud computing services, which must comply with this section if they otherwise meet the definition of an operator.

(10) (A) "Operator" means the operator, or an entity working on behalf of the operator, of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for K–12 school purposes and was designed or marketed for K–12 school purposes, including a provider of digital educational software or services, including digital course books.

(B) "Operator" does not include the State Department of Education, a local educational agency, or a school.

(11) "Pupil" means a student enrolled in a K–12 course of instruction.

(12) “Standardized test” means a test administered in California at the expense of the test subject that meets either of the following criteria:

(A) The test is used for the purposes of admission to, or class placement in, postsecondary educational institutions or their programs.

(B) The test is used for preliminary preparation for a test described in subparagraph (A).

(13) “Train a generative artificial intelligence system or service” has the same meaning as defined in Section 3110 of the Civil Code.

(b) An operator shall not knowingly engage in any of the following activities with respect to the operator’s site, service, or application:

(1) (A) Engage in targeted advertising on the operator’s site, service, or application, or (B) target advertising on any other site, service, or application, including via email or other direct communication to the pupil, when the targeting of the advertising is based upon any information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of that operator’s site, service, or application described in paragraph (10) of subdivision (a).

(2) Use any information, including covered information and persistent unique identifiers, created or gathered by the operator’s site, service, or application, to amass a profile about a pupil enrolled in a local educational agency, except in furtherance of K–12 school purposes and for the use and benefit of the K–12 school and the teacher, pupil, or parent.

(3) Sell a pupil’s information, including covered information, unless the sale meets either of the following criteria:

(A) The sale is for the purchase, merger, or other type of acquisition of an operator by another entity, provided that the operator or successor entity continues to be subject to the provisions of this section with respect to previously acquired pupil information.

(B) The sale is made pursuant to a written contract that prohibits the recipient from selling or disclosing the information, or any information derived from the information, to any other party other than for a purpose for which the sale is permitted under this paragraph or as required by law and meets either of the following criteria:

(i) The sale is made by a national assessment provider to a K–12 school, local educational agency, higher education institution, as defined in Section 22587, or a scholarship-granting organization, or a service provider acting on behalf of any of those entities or the national assessment provider, solely for assessment, admissions, the awarding of scholarships or financial aid, or other K–12 school purposes or higher education purposes, as defined in Section 22587, for the benefit of the pupil.

(ii) The sale is made by a nonprofit entity established to provide enrollment data reporting services on behalf of higher education institutions to a state or federal agency, a K–12 school, a local educational agency, a higher education institution, an entity servicing student loans, or an entity with a direct relationship with the pupil, solely for verification of a pupil’s graduation from high school for the benefit of the pupil.

(4) Disclose covered information unless the disclosure meets any of the following criteria:

(A) The disclosure is in furtherance of the K–12 purpose of the site, service, or application and the recipient of the covered information disclosed pursuant to this subparagraph meets both of the following criteria:

(i) The recipient does not further disclose the information unless done to allow or improve operability and functionality within that pupil’s classroom or school.

(ii) The recipient is legally required to comply with subdivision (d).

(B) The disclosure is necessary to ensure legal and regulatory compliance.

(C) The disclosure is necessary to respond to or participate in judicial process.

(D) The disclosure is necessary to protect the safety of users or others or security of the site.

(E) The disclosure is to a service provider, and the operator contractually (i) prohibits the service provider from using any covered information for any purpose other than providing the contracted service to, or on behalf of, the operator, (ii) prohibits the service provider from disclosing any covered information provided by the operator with subsequent third parties, and (iii) requires the service provider to implement and maintain reasonable security procedures and practices as provided in subdivision (d).

(F) The disclosure is made pursuant to a written contract that prohibits the recipient from selling or disclosing the information, or any information derived from the information, to any other party other than for a purpose for which the disclosure is permitted under this paragraph or as required by law and meets either of the following criteria:

(i) The disclosure is by a national assessment provider to a K–12 school, local educational agency, higher education institution, as defined in Section 22587, or to a scholarship-granting organization, or a service provider acting on behalf of any of those entities or the national assessment provider, solely for assessment, admissions, the awarding of scholarships or financial aid, or other K–12 school purposes or higher education purposes, as defined in Section 22587, for the benefit of the pupil.

(ii) The disclosure is made by a nonprofit entity established to provide enrollment data reporting services on behalf of higher education institutions to a state or federal agency, a K–12 school, a local educational agency, a higher education institution, an entity servicing student loans, or an entity with a direct relationship with the pupil, solely for verification of a pupil’s graduation from high school for the benefit of the pupil.

(5) Use covered information, including persistent unique identifiers, created or gathered by the operator’s site, service, or application to train a generative artificial intelligence system or service or develop an artificial intelligence system.

(6) Collect, use, retain, or disclose covered information relating to a pupil’s reproductive or sexual health, immigration status, or sexual orientation or gender identity.

(c) Subdivision (b) does not prohibit the operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

(d) An operator shall do all of the following:

(1) Implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information, and protect that information from unauthorized access, destruction, use, modification, or disclosure.

(2) (A) Delete a pupil's covered information if the school or local educational agency requests deletion of data under the control of the school or local educational agency.

(B) This paragraph does not require the deletion of pupil records held by a national assessment provider and that only include standardized test results.

(3) (A) Delete a pupil's CCPA-excluded covered information under the operator's control if a pupil's parent, education rights holder, or guardian or, in the case of a former pupil who is 18 years of age or older, the pupil requests an operator to delete the covered information under the operator's control if the pupil has been no longer enrolled in the local educational agency for at least 60 days.

(B) Before deleting any information described in subparagraph (A), the operator shall require documentation that the pupil is no longer enrolled in the local educational agency.

(C) This paragraph does not require deletion of mandatory permanent pupil records, described in Section 430 of Title 5 of the California Code of Regulations, or any official records or files directly related to a pupil and maintained by the operator, school, or local educational agency, including, but not limited to, records of achievement and results of evaluative tests or records encompassing all of the material kept in the pupil's cumulative folder that is maintained by the school or local educational agency, including, but not limited to, general identifying data, records of attendance and of academic work completed, health data, disciplinary status, test protocols, individualized education programs, or pupil records held by a national assessment provider and that only include standardized test results.

(4) (A) Subject to subparagraph (B), retain covered information only as long as reasonably necessary to fulfill the specific purpose for which the information was collected and delete the information using reasonable measures to protect against unauthorized access to, or use or disclosure of, the information in connection with its deletion when the specific purpose for which the information was collected is accomplished.

(B) This paragraph does not require deletion of mandatory permanent pupil records, described in Section 430 of Title 5 of the California Code of Regulations, or any official records or files directly related to a pupil and maintained by the operator, school, or local educational agency, including, but not limited to, records of achievement and results of evaluative tests or records encompassing all of the material kept in the pupil's cumulative folder that is maintained by the school or local educational agency, including,

but not limited to, general identifying data, records of attendance and of academic work completed, health data, disciplinary status, test protocols, individualized education programs, or pupil records held by a national assessment provider that include only standardized test results.

(5) (A) Establish, implement, and maintain a written data retention policy, which shall be made available upon request to a pupil, parent, guardian, education rights holder, or K–12 personnel, that states the purposes for which covered information is collected, the purpose for retaining the information, and a timeframe for deleting the information pursuant to paragraph (4).

(B) A written data retention policy under this paragraph shall not exceed the retention period for the same information or record if that information or record is maintained by the school or local educational agency.

(6) Disclose to a pupil the pupil’s CCPA-excluded covered information under the operator’s control if the pupil’s parent, education rights holder, or guardian or, in the case of a former pupil who is 18 years of age or older, the pupil requests an operator to disclose the covered information under the operator’s control if the pupil has no longer been enrolled in the school or local educational agency for at least 60 days.

(e) Notwithstanding paragraph (4) of subdivision (b), an operator may disclose covered information of a pupil, as long as paragraphs (1) to (3), inclusive, of subdivision (b) are not violated, under the following circumstances:

(1) If other provisions of federal or state law require the operator to disclose the information, and the operator complies with the requirements of federal and state law in protecting and disclosing that information.

(2) For legitimate research purposes: (A) as required by state or federal law and subject to the restrictions under applicable state and federal law or (B) as allowed by state or federal law and under the direction of a local educational agency or state department of education, if no covered information is used for any purpose in furtherance of advertising or to amass a profile on the pupil for purposes other than K–12 school purposes.

(3) To a state or local educational agency, including schools of local educational agencies, for K–12 school purposes, as permitted by state or federal law.

(f) This section does not prohibit an operator from using deidentified pupil covered information as follows:

(1) Within the operator’s site, service, or application or other sites, services, or applications owned by the operator to improve educational products.

(2) To demonstrate the effectiveness of the operator’s products or services, including in their marketing.

(g) This section does not prohibit an operator from sharing aggregated deidentified pupil covered information for the development and improvement of educational sites, services, or applications.

(h) This section does not limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or pursuant to an order of a court of competent jurisdiction.

(i) This section does not limit the ability of an operator to use pupil data, including covered information, for adaptive learning or customized pupil learning purposes.

(j) This section does not apply to general audience internet websites, general audience online services, general audience online applications, or general audience mobile applications that are not designed or marketed for K–12 school purposes, even if login credentials created for an operator’s site, service, or application may be used to access those general audience sites, services, or applications.

(k) This section does not limit internet service providers from providing internet connectivity to schools or pupils and their families.

(l) This section does not prohibit an operator of an internet website, online service, online application, or mobile application from marketing educational products directly to parents so long as the marketing did not result from the use of covered information obtained by the operator through the provision of services covered under this section.

(m) This section does not impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance of this section on those applications or software.

(n) This section does not impose a duty upon a provider of an interactive computer service, as defined in Section 230 of Title 47 of the United States Code, to review or enforce compliance with this section by third-party content providers.

(o) This section does not impede the ability of pupils to download, export, or otherwise save or maintain their own pupil-created data or documents.

(p) This section shall not be interpreted to limit or supersede any rights or requirements under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g), and any rules or regulations promulgated pursuant to those laws.

(q) This section does not require a school or local educational agency to review an operator’s deidentification processes or to approve an operator’s retention or use of deidentified information.

SEC. 2. Section 22585 of the Business and Professions Code is repealed.

SEC. 3. Section 22585 is added to the Business and Professions Code, to read:

22585. (a) A pupil who suffers actual damages as a result of an operator’s failure to comply with this chapter, or the pupil’s parent, education rights holder, or guardian, may, pursuant to this section, bring an action on that person’s behalf and on behalf of a similarly situated class of pupils against that operator to recover or obtain any of the following relief:

(1) The greater of actual damages or five hundred dollars (\$500) per plaintiff, per violation.

(2) Injunctive relief.

(3) Punitive damages.

(4) Reasonable attorney's fees and costs.

(b) (1) At least 60 days before bringing an action pursuant to this section, a pupil shall do both of the following:

(A) Provide written notice to the operator alleged to have violated this chapter regarding the nature of the alleged violations.

(B) Demand that the operator correct and remedy the alleged violations.

(2) The notice required by this subdivision shall be sent by certified or registered mail, return receipt requested, to the operator's address on file with the state or to the operator's principal place of business within the state.

(c) An action pursuant to this section brought by a pupil only on that pupil's behalf shall not be maintained upon a showing by an operator that an appropriate correction and remedy has been made, or agreed to be made within a reasonable time, to the pupil within 60 days after receipt of the notice required by subdivision (b).

(d) An action pursuant to this section brought by a pupil on both the pupil's behalf and on behalf of a similarly situated class of pupils shall not be maintained upon a showing by an operator that all of the following are true:

(1) Any pupil similarly situated has been identified, or a reasonable effort to identify the pupil has been made.

(2) Any similarly situated pupil identified has been notified that, upon the pupil's request, the operator shall make the appropriate correction and remedy.

(3) The correction and remedy requested by the pupil has been made, or in a reasonable time will be made.

(4) The operator has ceased, or will cease within a reasonable time, violating this chapter.

(e) (1) Attempts to comply with a demand described in subdivision (b) by an operator shall be deemed an offer to compromise and shall be inadmissible under Section 1152 of the Evidence Code and shall not be deemed an admission of violating this chapter.

(2) A defendant may introduce evidence of compliance or attempts to comply with this section for the purpose of establishing good faith or to show compliance with this chapter.

(f) A pupil, or the pupil's parent, education rights holder, or guardian, who brings an action under this section shall furnish a copy of the complaint to the Attorney General within 10 days after filing the action.

SEC. 4. Section 22586 of the Business and Professions Code is amended to read:

22586. (a) For purposes of this chapter:

(1) "Artificial intelligence" has the same meaning as defined in Section 3110 of the Civil Code.

(2) “California Consumer Privacy Act-excluded covered information” or “CCPA-excluded covered information” means covered information that is not subject to the California Consumer Privacy Act of 2018 (Title 1.81.5 (commencing with Section 1798.100) of Part 4 of Division 3 of the Civil Code).

(3) “Covered information” means personally identifiable information or materials, in any media or format that meets any of the following:

(A) Is created or provided by a pupil, or the pupil’s parent, education rights holder, or legal guardian, to an operator in the course of the pupil’s, parent’s, education rights holder’s, or legal guardian’s use of the operator’s site, service, or application for preschool and prekindergarten purposes.

(B) Is created or provided by an employee or agent of the preschool, prekindergarten, school district, local educational agency, or county office of education, to an operator.

(C) Is gathered by an operator through the operation of a site, service, or application described in paragraph (7) and is descriptive of a pupil or otherwise identifies a pupil, including, but not limited to, information in the pupil’s educational record or email, first and last name, home address, telephone number, email address, or other information that allows physical or online contact, demographics, discipline records, test results, special education data, extracurricular activities, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric or behavioral information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, pupil identifiers, device identifiers, search activity, photographs, voice recordings, or geolocation information.

(4) “Deidentified information” means information that cannot reasonably identify, relate to, describe, be capable of being associated with, or be linked, directly or indirectly, to a particular individual, preschool, prekindergarten, or household, if the operator that possesses the information does all of the following:

(A) Takes reasonable measures to ensure that the information cannot be associated with a particular individual, preschool, prekindergarten, or household.

(B) (i) Subject to clause (ii), publicly commits to maintain and use the information in deidentified form and not to attempt to reidentify the information.

(ii) The operator may attempt to reidentify the information solely for the purpose of determining whether its deidentification processes satisfy the criteria of this paragraph.

(C) Contractually obligates any recipient of the information to meet the criteria described in subparagraphs (A) and (B).

(D) Applies deidentification measures consistent with those required of educational agencies and institutions under the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and implementing regulations, as determined by the preschool, prekindergarten, or local educational agency.

(E) Makes its deidentification processes available for review by the preschool, prekindergarten, or local educational agency that the operator serves before any use of deidentified data by the operator.

(F) To the extent the preschool, prekindergarten, or local educational agency that the operator serves maintains a deidentification policy or standard, applies deidentification measures in accordance with that policy or standard.

(G) If the preschool, prekindergarten, or local educational agency that the operator serves reviews the operator's deidentification processes under subparagraph (E), the operator shall not use, share, or retain the information as deidentified information unless that preschool, prekindergarten, or local educational agency determines that the operator's deidentification process is sufficient under these standards.

(5) "Generative artificial intelligence" has the same meaning as defined in Section 3110 of the Civil Code.

(6) "Online service" includes cloud computing services, which must comply with this section if they otherwise meet the definition of an operator.

(7) (A) "Operator" means the operator, or an entity working on behalf of the operator, of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for preschool or prekindergarten purposes and was designed or marketed for preschool or prekindergarten purposes, including a provider of digital educational software or services, including digital course books.

(B) "Operator" does not include the State Department of Education, a local educational agency, a preschool, or a prekindergarten.

(8) "Preschool or prekindergarten purposes" means purposes that customarily take place at the direction of the preschool, prekindergarten, teacher, or school district, or aid in the administration of preschool or prekindergarten activities, including, but not limited to, instruction in the classroom or at home, administrative activities, and collaboration between pupils, preschool or prekindergarten personnel, or parents, or are for the use and benefit of the preschool or prekindergarten.

(9) "Pupil" means a child enrolled in a preschool or prekindergarten course of instruction.

(10) "Train a generative artificial intelligence system or service" has the same meaning as defined in Section 3110 of the Civil Code.

(b) An operator shall not knowingly engage in any of the following activities with respect to the operator's site, service, or application:

(1) (A) Engage in targeted advertising on the operator's site, service, or application.

(B) Target advertising on any other site, service, or application, including via email or other direct communication to the pupil when the targeting of the advertising is based upon any information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of that operator's site, service, or application described in paragraph (7) of subdivision (a).

(2) Use covered information, including persistent unique identifiers, created or gathered by the operator's site, service, or application, to amass a profile about a pupil, except in furtherance of a preschool or prekindergarten purpose for the use and benefit of the preschool or prekindergarten and the teacher, pupil, or parent.

(3) Sell a pupil's information, including covered information. This prohibition does not apply to the purchase, merger, or other type of acquisition of an operator by another entity, provided that the operator or successor entity continues to be subject to the provisions of this section with respect to previously acquired pupil information.

(4) Disclose covered information unless the disclosure meets any of the following criteria:

(A) The disclosure is in furtherance of the preschool and prekindergarten purposes of the site, service, or application, and the recipient of the covered information disclosed pursuant to this subparagraph meets both of the following criteria:

(i) The recipient does not further disclose the information unless done to allow or improve operability and functionality within that pupil's preschool or prekindergarten.

(ii) The recipient is legally required to comply with subdivision (d).

(B) The disclosure is necessary to ensure legal and regulatory compliance.

(C) The disclosure is necessary to respond to or participate in a judicial process.

(D) The disclosure is necessary to protect the safety of users or others or security of the site.

(E) The disclosure is to a service provider, provided the operator contractually (i) prohibits the service provider from using any covered information for any purpose other than providing the contracted service to, or on behalf of, the operator, (ii) prohibits the service provider from disclosing any covered information provided by the operator with subsequent third parties, and (iii) requires the service provider to implement and maintain reasonable security procedures and practices as provided in subdivision (d).

(5) Use covered information, including persistent unique identifiers, created or gathered by the operator's site, service, or application to train a generative artificial intelligence system or service or develop an artificial intelligence system.

(6) Collect, use, retain, or disclose covered information relating to a pupil's reproductive or sexual health, immigration status, or sexual orientation or gender identity.

(c) Subdivision (b) does not prohibit the operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

(d) An operator shall do all of the following:

(1) Implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information, and protect that information from unauthorized access, destruction, use, modification, or disclosure.

(2) Delete a pupil's covered information if the preschool, prekindergarten, or district requests deletion of data under the control of the preschool, prekindergarten, or district.

(3) (A) Delete a pupil's CCPA-excluded covered information under the operator's control if a pupil's parent, guardian, or education rights holder or, in the case of a former pupil 18 years of age or older, the pupil requests an operator to delete the covered information under the operator's control if the pupil has been no longer enrolled in the preschool, prekindergarten, or district for at least 60 days.

(B) Before deleting any information described in subparagraph (A), the operator shall require documentation that the pupil is no longer enrolled in the preschool, prekindergarten, or district.

(4) (A) Subject to subparagraph (B), retain covered information only as long as reasonably necessary to fulfill the specific purpose for which the information was collected and delete the information using reasonable measures to protect against unauthorized access to, or use or disclosure of, the information in connection with its deletion when the specific purpose for which the information was collected is accomplished.

(B) This paragraph does not require deletion of mandatory permanent pupil records, described in Section 430 of Title 5 of the California Code of Regulations, or any official records or files directly related to a pupil and maintained by the operator, school, or local educational agency, including, but not limited to, records of achievement and results of evaluative tests or records encompassing all of the material kept in the pupil's cumulative folder that is maintained by the school or local educational agency, including, but not limited to, general identifying data, records of attendance and of academic work completed, health data, disciplinary status, test protocols, individualized education programs, or pupil records held by a national assessment provider that include only standardized test results.

(5) (A) Establish, implement, and maintain a written data retention policy, which shall be made available upon request to a pupil, parent, guardian, education rights holder, or preschool or prekindergarten personnel, that states the purposes for which covered information is collected, the purpose for retaining the information, and a timeframe for deleting the information pursuant to paragraph (4).

(B) A written data retention policy under this paragraph shall not exceed the retention period for the same information or record if that information or record is maintained by the preschool's or prekindergarten's personnel.

(6) Disclose to a pupil the pupil's CCPA-excluded covered information under the operator's control if the pupil's parent, education rights holder, or guardian or, in the case of a former pupil who is 18 years of age or older, the pupil requests an operator to disclose the covered information under the operator's control if the pupil has no longer been enrolled in the preschool, prekindergarten, or local educational agency for at least 60 days.

(e) Notwithstanding paragraph (4) of subdivision (b), an operator may disclose covered information of a pupil, as long as paragraphs (1) to (3),

inclusive, of subdivision (b) are not violated, under the following circumstances:

(1) If other provisions of federal or state law require the operator to disclose the information, and the operator complies with the requirements of federal and state law in protecting and disclosing that information.

(2) For legitimate research purposes: (A) as required by state or federal law and subject to the restrictions under applicable state and federal law or (B) as allowed by state or federal law and under the direction of a preschool, prekindergarten, school district, or state department of education, if no covered information is used for any purpose in furtherance of advertising or to amass a profile on the pupil for purposes other than preschool and prekindergarten purposes.

(3) To a state or local educational agency, including preschools, prekindergartens, and school districts, for preschool and prekindergarten purposes, as permitted by state or federal law.

(f) This section does not prohibit an operator from using deidentified pupil covered information as follows:

(1) Within the operator's site, service, or application or other sites, services, or applications owned by the operator to improve educational products.

(2) To demonstrate the effectiveness of the operator's products or services, including in their marketing.

(g) This section does not prohibit an operator from sharing aggregated deidentified pupil covered information for the development and improvement of educational sites, services, or applications.

(h) This section does not limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or pursuant to an order of a court of competent jurisdiction.

(i) This section does not limit the ability of an operator to use a pupil's data, including covered information, for adaptive learning or customized early learning purposes.

(j) This section does not apply to general audience internet websites, general audience online services, general audience online applications, or general audience mobile applications that are not designed or marketed for preschool or prekindergarten purposes, even if login credentials created for an operator's site, service, or application may be used to access those general audience sites, services, or applications.

(k) This section does not limit internet service providers from providing internet connectivity to preschools, prekindergartens, or pupils and their families.

(l) This section does not prohibit an operator of an internet website, online service, online application, or mobile application from marketing educational products directly to parents so long as the marketing did not result from the use of covered information obtained by the operator through the provision of services covered under this section.

(m) This section does not impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading

software or applications to review or enforce compliance of this section on those applications or software.

(n) This section does not impose a duty upon a provider of an interactive computer service, as defined in Section 230 of Title 47 of the United States Code, to review or enforce compliance with this section by third-party content providers.

(o) This section does not impede the ability of pupils to download, export, or otherwise save or maintain their own personally created data or documents.

(p) This section shall not be interpreted to limit or supersede any rights or requirements under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g), and any rules or regulations promulgated pursuant to those laws.

(q) This section does not require a preschool, prekindergarten, or local educational agency to review an operator's deidentification processes or to approve an operator's retention or use of deidentified information.

SEC. 5. Section 22586.1 is added to the Business and Professions Code, to read:

22586.1. (a) A pupil who suffers actual damages as a result of an operator's failure to comply with this chapter, or the pupil's parent, education rights holder, or guardian, may, pursuant to this section, bring an action on that person's behalf and on behalf of a similarly situated class of pupils against that operator to recover or obtain any of the following relief:

(1) The greater of actual damages or five hundred dollars (\$500) per plaintiff, per violation.

(2) Injunctive relief.

(3) Punitive damages.

(4) Reasonable attorney's fees and costs.

(b) (1) At least 60 days before bringing an action pursuant to this section, a pupil shall do both of the following:

(A) Provide written notice to the operator alleged to have violated this chapter regarding the nature of the alleged violations.

(B) Demand that the operator correct and remedy the alleged violations.

(2) The notice required by this subdivision shall be sent by certified or registered mail, return receipt requested, to the operator's address on file with the state or to the operator's principal place of business within the state.

(c) An action pursuant to this section brought by a pupil only on that pupil's behalf shall not be maintained upon a showing by an operator that an appropriate correction and remedy has been made, or agreed to be made within a reasonable time, to the pupil within 60 days after receipt of the notice required by subdivision (b).

(d) An action pursuant to this section brought by a pupil on both the pupil's behalf and on behalf of a similarly situated class of pupils shall not be maintained upon a showing by an operator that all of the following are true:

(1) Any pupil similarly situated has been identified, or a reasonable effort to identify the pupil has been made.

(2) Any similarly situated pupil identified has been notified that, upon the pupil's request, the operator shall make the appropriate correction and remedy.

(3) The correction and remedy requested by the pupil has been made, or in a reasonable time will be made.

(4) The operator has ceased, or will cease within a reasonable time, violating this chapter.

(e) (1) Attempts to comply with a demand described in subdivision (b) by an operator shall be deemed an offer to compromise and shall be inadmissible under Section 1152 of the Evidence Code and shall not be deemed an admission of violating this chapter.

(2) A defendant may introduce evidence of compliance or attempts to comply with this section for the purpose of establishing good faith or to show compliance with this chapter.

(f) A pupil, or the pupil's parent, education rights holder, or guardian, who brings an action under this section shall furnish a copy of the complaint to the Attorney General within 10 days after filing the action.

SEC. 6. Section 22587 of the Business and Professions Code is repealed.

SEC. 7. Chapter 22.2.6 (commencing with Section 22587) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 22.2.6. HIGHER EDUCATION STUDENT INFORMATION PROTECTION ACT

22587. (a) For purposes of this chapter:

(1) "Artificial intelligence" has the same meaning as defined in Section 3110 of the Civil Code.

(2) "California Consumer Privacy Act-excluded covered information" or "CCPA-excluded covered information" means covered information that is not subject to the California Consumer Privacy Act of 2018 (Title 1.81.5 (commencing with Section 1798.100) of Part 4 of Division 3 of the Civil Code).

(3) "Covered information" means personally identifiable information or materials, in any media or format, that is any of the following:

(A) Created or provided by a student, or if the student is under 18 years of age, the student's parent, educational rights holder, or legal guardian, to an operator in the course of the student's, parent's, education rights holder's, or legal guardian's use of the operator's site, service, or application for higher education purposes.

(B) Created or provided by an employee or agent of a higher education institution to an operator.

(C) Gathered by an operator through the operation of a site, service, or application described in paragraph (11) and is descriptive of a student, or otherwise identifies a student, including, but not limited to, information in

the student’s educational record or email, first and last name, home address, telephone number, or other information that allows physical or online contact, demographics, course of study, discipline records, test results, special education data, extracurricular activities, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric or behavioral information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, student identifiers, device identifiers, online search activity, photographs, voice recordings, or geolocation information.

(4) “Deidentified information” means information that cannot reasonably identify, relate to, describe, be capable of being associated with, or be linked, directly or indirectly, to a particular individual, higher education institution, or household, if the operator that possesses the information does all of the following:

(A) Takes reasonable measures to ensure that the information cannot be associated with a particular individual, higher education institution, or household.

(B) (i) Subject to clause (ii), publicly commits to maintain and use the information in deidentified form and not to attempt to reidentify the information.

(ii) The operator may attempt to reidentify the information solely for the purpose of determining whether its deidentification processes satisfy the criteria of this paragraph.

(C) Contractually obligates any recipient of the information to meet the criteria described in subparagraphs (A) and (B).

(D) Applies deidentification measures consistent with those required of educational agencies and institutions under the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and implementing regulations, as determined by the higher education institution.

(E) Makes its deidentification processes available for review by the higher education institution that the operator serves before any use of deidentified data by the operator.

(F) To the extent the higher education institution that the operator serves maintains a deidentification policy or standard, applies deidentification measures in accordance with that policy or standard.

(G) If the higher education institution that the operator serves reviews the operator’s deidentification processes under subparagraph (E), the operator shall not use, share, or retain the information as deidentified information unless that higher education institution determines that the operator’s deidentification process is sufficient under these standards.

(5) “Generative artificial intelligence” has the same meaning as defined in Section 3110 of the Civil Code.

(6) “Higher education institution” means a postsecondary institution, vocational program, or postgraduate program that is accredited by an accrediting agency or organization recognized by the state or the United States Department of Education.

(7) “Higher education purposes” means purposes that customarily take place at the direction of the instructor or higher education institution or aid in the administration of higher education institution activities, including, but not limited to, instruction in the classroom or at home, administrative activities, and collaboration between students and higher education institution personnel or are for the use and benefit of the higher education institution.

(8) “Local educational agency” means a school district, county office of education, charter school, or the state special schools for the blind and the deaf.

(9) “National assessment provider” means a person that develops, sponsors, or administers standardized tests.

(10) “Online service” includes a cloud computing service, which shall comply with this section if it is an operator.

(11) (A) “Operator” means the operator, or an entity working on behalf of the operator, of an internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used for higher educational purposes and was designed or marketed for higher educational purposes, including a provider of digital educational software or services, including digital course books.

(B) “Operator” does not include a local educational agency or a higher education institution.

(12) “Student” means a student enrolled in a higher education institution.

(13) “Train a generative artificial intelligence system or service” has the same meaning as defined in Section 3110 of the Civil Code.

(b) An operator shall not knowingly engage in any of the following activities with respect to the operator’s site, service, or application:

(1) (A) Engage in targeted advertising on the operator’s site, service, or application, or (B) target advertising on any other site, service, or application, including via email or other direct communication to the student, when the targeting of the advertising is based upon any information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of that operator’s site, service, or application described in paragraph (11) of subdivision (a).

(2) Use information, including persistent unique identifiers, created or gathered by the operator’s site, service, or application, to amass a profile about a student, unless it is in the furtherance of higher education purposes.

(3) Sell a student’s information, including covered information, unless the sale meets either of the following criteria:

(A) The sale is for the purchase, merger, or other type of acquisition of an operator by another entity, provided that the operator or successor entity continues to be subject to the provisions of this section with respect to previously acquired student information.

(B) The sale is made pursuant to a written contract that prohibits the recipient from selling or disclosing the information, or any information derived from the information, to any other party other than for a purpose for which the sale is permitted under this paragraph or as required by law and meets either of the following criteria:

(i) The sale is made by a national assessment provider to a K–12 school, a local educational agency, a higher education institution, or a scholarship-granting organization, or a service provider acting on behalf of any of those entities or the national assessment provider, solely for assessment, admissions, the awarding of scholarships or financial aid, or other K–12 school purposes or higher education purposes for the benefit of the student.

(ii) The sale is made by a nonprofit entity established to provide enrollment data reporting services on behalf of higher education institutions to a state or federal agency, a higher education institution, an entity servicing student loans, an entity with a direct relationship with the student, or any such entity's service provider requesting data on behalf of that entity for any of the following purposes for the benefit of the student:

(I) As part of an enrollment verification, credential verification, transcript delivery, an enrollment reporting service, or a service that provides information on a student's subsequent enrollment or credential attainment.

(II) For legal, accreditation, or regulatory compliance purposes.

(III) For a higher education purpose.

(4) Disclose covered information unless the disclosure meets any of the following criteria:

(A) The disclosure is in furtherance of the higher education purposes of the site, service, or application, and the recipient of the covered information disclosed pursuant to this subparagraph meets both of the following criteria:

(i) The recipient does not further disclose the information unless done to allow or improve operability and functionality within that student's higher education institution.

(ii) The recipient is legally required to comply with subdivision (d).

(B) The disclosure is necessary to ensure legal and regulatory compliance.

(C) The disclosure is necessary to respond to or participate in judicial process.

(D) The disclosure is necessary to protect the safety of users or others or security of the site.

(E) The disclosure is to a service provider, provided the operator contractually (i) prohibits the service provider from using any covered information for any purpose other than providing the contracted service to, or on behalf of, the operator, (ii) prohibits the service provider from disclosing any covered information provided by the operator with subsequent third parties, and (iii) requires the service provider to implement and maintain reasonable security procedures and practices as provided in subdivision (d).

(F) The disclosure is made pursuant to a written contract that prohibits the recipient from selling or disclosing the information, or any information derived from the information, to any other party other than for a purpose for which the disclosure is permitted under this paragraph or as required by law and meets either of the following criteria:

(i) The disclosure is by a national assessment provider to a higher education institution, K–12 school, local educational agency, as defined in Section 22584, or a scholarship-granting organization, or a service provider

acting on behalf of any of those entities or the national assessment provider, solely for assessment, admissions, the awarding of scholarships or financial aid, or other higher education purposes or K–12 school purposes, as defined in Section 22584, for the benefit of the student.

(ii) The disclosure is made by a nonprofit entity established to provide enrollment data reporting services on behalf of higher education institutions to a state or federal agency, a higher education institution, an entity servicing student loans, an entity with a direct relationship with the student, or any such entity's service provider requesting data on behalf of that entity for any of the following purposes for the benefit of the student:

(I) As part of an enrollment verification, a credential verification, a transcript delivery, an enrollment reporting service, or a service that provides information on a student's subsequent enrollment or credential attainment.

(II) For legal, accreditation, or regulatory compliance purposes.

(III) For a higher education purpose.

(G) The disclosure is for legitimate research purposes under the direction of a higher education institution or state department of education and covered information is not used for advertising or to amass a profile on the student for purposes other than higher education purposes.

(H) The disclosure is to a state agency or higher education institution, including schools of local educational agencies, for higher education purposes.

(5) Use covered information, including persistent unique identifiers, created or gathered by the operator's site, service, or application to train a generative artificial intelligence system or service or develop an artificial intelligence system.

(6) Collect, use, retain, or disclose covered information relating to a student's reproductive or sexual health, immigration status, precise geolocation information, or sexual orientation or gender identity.

(c) Subdivision (b) does not prohibit the operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

(d) An operator shall do all of the following:

(1) Implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information, and protect that information from unauthorized access, destruction, use, modification, or disclosure.

(2) Delete a student's covered information if the higher education institution requests deletion of data under the control of the higher education institution.

(3) (A) Delete a student's CCPA-excluded covered information under the operator's control if a student or, if the student is under 18 years of age, the student's parent, guardian, or education rights holder requests an operator to delete the covered information under the operator's control if the student has been no longer enrolled in the local education agency or higher education institution for at least 60 days.

(B) Before deleting any information described in subparagraph (A), the operator shall require documentation that the student is no longer enrolled in the higher education institution.

(4) (A) Subject to subparagraph (B), retain covered information only as long as reasonably necessary to fulfill the specific purpose for which the information was collected and delete the information using reasonable measures to protect against unauthorized access to, or use or disclosure of, the information in connection with its deletion when the specific purpose for which the information was collected is accomplished.

(B) This paragraph does not require deletion of mandatory permanent student records, described in Section 430 of Title 5 of the California Code of Regulations, or any official records or files directly related to a student and maintained by the operator or higher education institution, including, but not limited to, records of achievement and results of evaluative tests or records encompassing all of the material kept in the student's cumulative folder that is maintained by the higher education institution, including, but not limited to, general identifying data, records of attendance and of academic work completed, health data, disciplinary status, test protocols, individualized education programs, or student records held by a national assessment provider that include only standardized test results.

(5) (A) Establish, implement, and maintain a written data retention policy, which shall be made available upon request to a student or higher education personnel, that states the purposes for which covered information is collected, the purpose for retaining the information, and a timeframe for deleting the information pursuant to paragraph (4).

(B) A written data retention policy under this paragraph shall not exceed the retention period for the same information or record if that information or record is maintained by the higher education institution's personnel.

(6) Disclose to a student the student's CCPA-excluded covered information under the operator's control if the student's parent, education rights holder, or guardian or, in the case of a former student who is 18 years of age or older, the student requests an operator to disclose the covered information under the operator's control if the student has no longer been enrolled in the higher education institution or local educational agency for at least 60 days.

(e) This section does not prohibit an operator from using deidentified student covered information for either of the following purposes:

(1) Within the operator's site, service, or application or other sites, services, or applications owned by the operator to improve educational products.

(2) To demonstrate the effectiveness of the operator's products or services, including in the operator's marketing.

(f) This section does not prohibit an operator from sharing aggregated deidentified student covered information for the development and improvement of educational sites, services, or applications.

(g) This section does not limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or pursuant to an order of a court of competent jurisdiction.

(h) This section does not limit the ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes.

(i) This section does not apply to general audience internet websites, general audience online services, general audience online applications, or general audience mobile applications that are not designed or marketed for a higher education purpose, even if login credentials created for an operator's site, service, or application may be used to access those general audience sites, services, or applications.

(j) This section does not limit internet service providers from providing internet connectivity to higher education institutions or students.

(k) This section does not impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance of this section on those applications or software.

(l) This section does not impose a duty upon a provider of an interactive computer service, as defined in Section 230 of Title 47 of the United States Code, to review or enforce compliance with this section by third-party content providers.

(m) This section does not impede the ability of students to download, export, or otherwise save or maintain their own student-created data or documents.

(n) This section shall not be interpreted to limit or supersede any rights or requirements under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. Sec. 701 et seq.), the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g), and any rules or regulations promulgated pursuant to those laws.

(o) This section does not prohibit an operator of an internet website, online service, online application, or mobile application from marketing educational products directly to students or, if the student is under 18 years of age, the student's parent, guardian, or educational rights holder, if the marketing did not result from the use of covered information obtained by the operator through the provision of services covered under this section.

(p) This section does not require a higher education institution to review an operator's deidentification processes or to approve an operator's retention or use of deidentified information.

(q) This section does not prohibit an operator from communicating with a student regarding course materials that are required or recommended for the student's courses by the student's instructor or higher education institution, payment deadlines, equipment and course material rental and return policies, refunds, returns, and order fulfillment status.

22587.1. (a) A student who suffers actual damages as a result of an operator's failure to comply with this chapter, or the student's parent,

education rights holder, or guardian, may, pursuant to this section, bring an action on that person's behalf and on behalf of a similarly situated class of students against that operator to recover or obtain any of the following relief:

(1) The greater of actual damages or five hundred dollars (\$500) per plaintiff, per violation.

(2) Injunctive relief.

(3) Punitive damages.

(4) Reasonable attorney's fees and costs.

(b) (1) At least 60 days before bringing an action pursuant to this section, a student shall do both of the following:

(A) Provide written notice to the operator alleged to have violated this chapter regarding the nature of the alleged violations.

(B) Demand that the operator correct and remedy the alleged violations.

(2) The notice required by this subdivision shall be sent by certified or registered mail, return receipt requested, to the operator's address on file with the state or to the operator's principal place of business within the state.

(c) An action pursuant to this section brought by a student only on that student's behalf shall not be maintained upon a showing by an operator that an appropriate correction and remedy has been made, or agreed to be made within a reasonable time, to the student within 60 days after receipt of the notice required by subdivision (b).

(d) An action pursuant to this section brought by a student on both the student's behalf and on behalf of a similarly situated class of students shall not be maintained upon a showing by an operator that all of the following are true:

(1) Any student similarly situated has been identified, or a reasonable effort to identify the student has been made.

(2) Any similarly situated student identified has been notified that, upon the student's request, the operator shall make the appropriate correction and remedy.

(3) The correction and remedy requested by the student has been made, or in a reasonable time will be made.

(4) The operator has ceased, or will cease within a reasonable time, violating this chapter.

(e) (1) Attempts to comply with a demand described in subdivision (b) by an operator shall be deemed an offer to compromise and shall be inadmissible under Section 1152 of the Evidence Code and shall not be deemed an admission of violating this chapter.

(2) A defendant may introduce evidence of compliance or attempts to comply with this section for the purpose of establishing good faith or to show compliance with this chapter.

(f) A student, or the student's parent, education rights holder, or guardian, who brings an action under this section shall furnish a copy of the complaint to the Attorney General within 10 days after filing the action.

22587.2. This chapter shall become operative on July 1, 2027.