



July 29, 2024

Dr. Miguel Cardona
Secretary of Education
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

Catherine E. Lhamon
Assistant Secretary for Civil Rights
U.S. Department of Education
400 Maryland Ave SW
Washington, DC 20202

Dear Secretary Cardona and Assistant Secretary Lhamon;

The [Sexual Violence Prevention Association \(SVPA\)](#) writes on behalf of the 37 undersigned organizations to express our concern regarding the prevalence and impact of technology-facilitated sexual violence and digital sexual harassment in K-12 schools and higher learning institutions. We are requesting guidance from the U.S. Department of Education to address this issue.

Digital sexual harassment includes image-based sexual abuse, artificially generated explicit materials, and child sexual abuse material. Image-based sexual abuse (IBSA), commonly known as “revenge pornography,” refers to sexually explicit images or videos that were recorded with consent but distributed or disseminated without consent. Artificially generated explicit materials, commonly known as “AI porn” or “deepfake pornography,” refers to sexually explicit images or videos that were created using a computer algorithm without the consent of the person depicted. Child sexual abuse material (CSAM) refers to any sexually explicit material that depicts a minor, including both real and deepfake images.

Digital sexual harassment is a significant issue. As of 2023, over 98% of deepfakes on the internet were pornographic.¹ There were over 500,000 deepfakes shared online in the past year and the number of deepfakes online is doubling every six months.² Over 60% of adults report

¹ “2023 State Of Deepfakes: Realities, Threats, And Impact.” Home Security Heroes, n.d.
<https://www.homesecurityheroes.com/state-of-deepfakes/>.

² Petkaskas, Vilius. “Report: Number of Expert-Crafted Video Deepfakes Double Every Six Months.” *Cybernews*, September 28, 2021.
<https://cybernews.com/privacy/report-number-of-expert-crafted-video-deepfakes-double-every-six-months/>; Steele, Chandra. “The Internet Is Full of Deepfakes, and Most of Them Are Porn.” *PCMag*, October 18, 2023. <https://www.pcmag.com/news/the-internet-is-full-of-deepfakes-and-most-of-them-are-porn>; Ulmer and Tong. “Deepfaking It: America’s 2024 Election Collides With AI Boom.” *Reuters*, May 30, 2023.

they have sent explicit photos. Of those who have sent explicit photos, 23% are a victim of IBSA.³ One study found that 10% of college women have been victims of IBSA.⁴ There have been cases of nonconsensual artificially generated explicit materials being made and distributed in K-12 schools across the country, including Washington, New Jersey, Florida, and Iowa.⁵ In Beverly Hills, CA, five middle school students created and shared nonconsensual AI-generated explicit content of 16 classmates.⁶ In 2021, more than 29 million reports of suspected child sexual exploitation were reported and that number is growing. Those 29 million reports included 84.9 million images and videos of CSAM.⁷

All forms of digital sexual harassment violate victims' consent, autonomy, and privacy. Victims face an increased risk of stalking, domestic abuse, loss of employment, damaged reputation, and emotional trauma. We need you to issue guidance to help schools prevent and address this pressing issue.

Title IX Coverage

The SVPA commends the inclusion of nonconsensual artificial intelligence (AI) explicit materials in the discussion of online harassment in the preamble of the 2024 Title IX rule. Defining "Online harassment [to] include... the nonconsensual distribution of intimate images (including authentic images and images that have been altered or generated by artificial intelligence (AI) technologies)" broadens the scope of Title IX protections. Unfortunately, many administrators in education institutions are unaware of digital sexual harassment, its implications within Title IX, or proper strategies to address and prevent it. Please issue guidance defining digital sexual harassment and delineating the parameters when it is and is not covered by Title IX.

<https://www.reuters.com/world/us/deepfaking-it-americas-2024-election-collides-with-ai-boom-2023-05-30/>.

³ Hinduja, Sameer. "Revenge Porn Research, Laws, and Help for Victims." Cyberbullying Research Center, April 9, 2024. <https://cyberbullying.org/revenge-porn-research-laws-help-victims>.

⁴ College Pulse. "1 In 10 Female College Students Have Been a Victim of Revenge Porn," n.d. <https://collegepulse.com/blog/female-college-students-revenge-porn-victims>.

⁵ Chavez, Bridget. "No Charges as AI-Generated Nude Pictures of Female Students Circulate around Issaquah School." KIRO 7 News Seattle, November 9, 2023.

<https://www.kiro7.com/news/local/no-charges-ai-generated-nude-pictures-female-students-circulate-around-issaquah-school/MCQTOKWRVREPTK3K2IAQWTRR6U/>; Jargon, Julie. "Fake Nudes of Real Students Cause an Uproar at a New Jersey High School." The Wall Street Journal, November 2, 2023.

<https://www.wsj.com/tech/fake-nudes-of-real-students-cause-an-uproar-at-a-new-jersey-high-school-df10f1bb>; Haskins, Caroline. "Florida Middle Schoolers Arrested for Allegedly Creating Deepfake Nudes of Classmates." Wired, March 8, 2024.

<https://www.wired.com/story/florida-teens-arrested-deepfake-nudes-classmates/>; Bowman, Beau. "Central Iowa Sheriff's Office Investigating Explicit AI Photographs of High School Students." KCCI, April 23, 2024.

<https://www.kcci.com/article/story-count-sheriff-investigating-explicit-ai-photographs-of-nevada-high-school-students/60584800>.

⁶ Tenbarge, Kat. "Beverly Hills Middle School Expels 5 Students after Deepfake Nude Photos Incident." NBC News, March 8, 2024.

<https://www.nbcnews.com/tech/tech-news/beverly-hills-school-expels-students-deepfake-nude-photos-rca142480>.

⁷ "What Is Child Sexual Abuse Material (CSAM) | RAINN," n.d.

<https://www.rainn.org/news/what-child-sexual-abuse-material-csam>.

Title IX Practices & Remedies

We respectfully urge the Department of Education to issue guidance delineating Title IX procedures and protocols specifically tailored to addressing digital sexual harassment within educational institutions. This guidance should provide clear direction on how schools can effectively handle cases of digital sexual harassment including support mechanisms for victims, investigation procedures, research and referrals, and prevention strategies. Additionally, we request comprehensive guidance on the appropriate handling and preservation of evidence related to digital sexual harassment incidents, as well as procedures for securely disposing of such evidence once it is no longer needed for investigation or legal proceedings. Clear and consistent guidance in these areas is essential for ensuring that schools are equipped to respond promptly and effectively to instances of digital sexual harassment, thereby safeguarding the rights and well-being of all students under Title IX.

Trauma-Informed Approach

Guidance for administrators addressing digital sexual harassment must prioritize a trauma-informed approach. Title IX administrators must understand that digital sexual harassment can cause significant trauma despite not being physical, or in the case of deepfakes not being an authentic image. They must recognize the potential impact of trauma on the victim's emotional and psychological state and respond with empathy, sensitivity, and respect. They must foster a supportive and nonjudgmental environment where the victim feels heard, believed, and empowered to make decisions about their own recovery and pursuit of justice. When working with victims of digital sexual harassment administrators must prioritize the individual's well-being, safety, and autonomy throughout the process. This includes presenting a variety of options for seeking healing, support, and justice including options within and outside of Title IX's mechanisms, such as restorative and transformative justice initiatives. The victim should be fully aware of who and how many individuals must view the evidence, in relation to each of their options for pursuing justice and support. A trauma-informed administrator should also ensure that the victim has access to comprehensive support services, such as counseling, advocacy, and legal assistance, and should consider the victim's preferences and needs when implementing Title IX procedures. By centering the victim's experiences and needs, a trauma-informed Title IX administrator can help mitigate the harm caused by digital sexual harassment and facilitate the victim's healing and recovery process.

Resource Provision

Title IX administrators require guidance about the resources and services they should offer to victims. Administrators should refer victims to on-campus resources including counseling, mental health programs, and leave of absence options. Additionally, administrators should provide victims with information about off-campus resources, including tools for removing digital sexual harassment materials from social media platforms, search engines, and websites. The following is a list of additional external referral options.

- [National Center for Missing and Exploited Children \(NCMEC\)](#) - NCMEC has a variety of resources. They take reports of child sexual exploitation, CSAM, missing children, and similar situations. They provide resources, support, information, and a connection to law enforcement.

- [Cyber Civil Rights Initiative \(CCRI\)](#) - CCRI helps combat IBSA by providing information, support, and referrals to victims and survivors of nonconsensual distribution of intimate images (NDII).
- [Take It Down](#) - This tool from NCMEC helps remove CSAM from social media platforms, websites, and search engines by creating a digital footprint of images or videos that are submitted through their service.
- [CCRI Safety Center](#) This tool from CCRI helps people collect evidence and report to law enforcement. It also helps people report IBSA to social media platforms, search engines, and other websites/apps.

Prevention

We respectfully urge the Department of Education to issue comprehensive guidance for Title IX administrators to support the inclusion of digital sexual harassment under the new Title IX rule and prevent it in schools. All education institutions should provide digital bystander intervention training. This should cover the 5 R's of digital bystander intervention which were created by the [Sexual Violence Prevention Association \(SVPA\)](#).⁸ When covering the 5 R's emphasis should be placed on resources and support systems the school provides. Furthermore, all colleges and K-12 schools should provide consent education, particularly regarding image sharing. Lessons can cover topics such as the basic concept that someone giving you consent to view an intimate image doesn't mean you have consent to share it. Lastly, to prevent digital sexual harassment, educational institutions must not post students' photos without permission. Further, they should not require photos to be posted nor should they post photos automatically. Anytime a student's photo is posted to social media, email profile pictures, or the campus directory there should be informed consent. Most importantly, administrators should be reminded of their duties under FERPA.

Criminal/Civil Compliance

We respectfully urge the Department of Education to provide comprehensive guidance for Title IX administrators regarding the civil and criminal laws they must remain in compliance with while carrying out their Title IX duties. Title IX administrators should be encouraged to stay abreast of all relevant federal, state, and local laws and regulations.

Data Collection

We respectfully urge the Department of Education to issue guidance for data collection regarding digital sexual harassment. In all places *data is collected, including climate surveys, digital sexual harassment should be included. This data should be regularly assessed and utilized to inform improvements within support and prevention efforts.

Please contact Omny Miranda Martone, the Founder and CEO of the [Sexual Violence Prevention Association \(SVPA\)](#), to set up a meeting at info@s-v-p-a.org.

⁸ Sexual Violence Prevention Association. Virtual Bystander Intervention - 5 R's, n.d. <https://drive.google.com/file/d/1y8KzkTkkrASMyEGK2DocN941IpC1-Ja5/view>.

Thank you,
Sexual Violence Prevention Association (SVPA)

Joined by:

1. Advocates for Youth
2. American Association of University Women (AAUW)
3. Arkansas Coalition Against Sexual Assault (ACASA)
4. C.A. Goldberg, PLLC
5. Day One
6. End Rape On Campus (EROC)
7. Equal Rights Advocates (ERA)
8. Equality Now
9. Eyes Open International
10. GLSEN
11. Greater Boston PFLAG
12. Greater Cleveland Collaborative to End Human Trafficking
13. Harriet Tubman Movement
14. Healthy Teen Network
15. Jane Doe Inc.
16. Justice and Joy National Collaborative, formerly National Crittenton
17. Know Your IX, a project of Advocates for Youth
18. love is respect, a project of the National Domestic Violence Hotline
19. Mass NOW
20. Massachusetts Commission on Lesbian, Gay, Bisexual, Transgender, Queer and Questioning Youth
21. me too. International
22. My Image My Choice
23. #NãoPartilhes
24. National Center on Sexual Exploitation (NCOSE)
25. National Organization for Women (NOW)
26. National Organization of API Ending Sexual Violence (NAPIESV)
27. National Women's Law Center (NWLC)
28. Network for Victim Recovery of DC (NVRDC)
29. Rape, Abuse, and Incest National Network (RAINN)
30. Reclaim Coalition
31. SIECUS: Sex Ed for Social Change
32. Stop It Now!
33. Stop Sexual Assault in Schools (SSAIS)
34. UltraViolet
35. Union for Reform Judaism
36. Women of Reform Judaism
37. Womens Digital Defender Latam