

CAYMAN ISLANDS



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**A BILL FOR A LAW TO DEFINE BULLYING; ESTABLISH MEASURES
TO PREVENT BULLYING IN SCHOOLS; AND FOR INCIDENTAL AND
CONNECTED PURPOSES**

CONSULTATION DRAFT 17th January 2019

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THE ANTI-BULLYING (SCHOOL) BILL, 2019
MEMORANDUM OF OBJECTS AND REASONS

TO BE COMPLETED AFTER CONSULTATION

CONSULTATION DRAFT 17th January 2019

THE ANTI-BULLYING (SCHOOLS) BILL, 2019

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A BILL FOR A LAW TO DEFINE BULLYING; ESTABLISH MEASURES TO PREVENT BULLYING IN SCHOOLS; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Anti-Bullying (Schools) Law, 2019.

Short title and
commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet.

2. In this Law -

Interpretation

“assisted school” means a school that is partly funded, but not managed, by the Government;

“behaviour” includes conduct which is physical, verbal, electronic or written;

“bullying” includes any repeated behaviour by a student where the behaviour is intended by that student to have the effect of, or that student ought to know that the behaviour would likely have the effect of -

- (a) causing physical, emotional, psychological or social harm to another student;
- (b) placing another student in reasonable fear of physical, emotional, psychological or social harm;
- (c) placing another student in reasonable fear of damage to that student’s property;

- (d) creating an intimidating, threatening, hostile or abusive educational environment for another student;
- (e) disrupting the academic progress of another student;
- (f) damaging the reputation of another student; or
- (g) infringing on the rights of another student to participate in school activities;

“Department of Education Services” means the agency responsible for education in relation to the conduct of Government schools;

“disciplinary penalties” means penalties imposed on a student by a school where the student’s behaviour contravenes the anti-bullying policy of the school;

“educational institution” means -

- (a) a school; or
- (b) an institution that provides part-time or full-time -
 - (i) early childhood care and education;
 - (ii) compulsory education;
 - (iii) post-compulsory education and training;
 - (iv) technical and vocational education and training;
 - (v) education to prepare for the award of any degree, qualification or certification; or
 - (vi) education for persons with special education needs and disabilities;

“conduct which is electronic” includes conduct which involves -

- (a) creating a web page or engaging in any form of communication over a telecommunication network;
- (b) creating a web page or a blog in which the creator assumes the identity of another person;
- (c) impersonating another person as the author of content or messages posted online; and
- (d) communicating material electronically or posting material on a website that may be accessed by one or more individuals;

“Government schools” means a school principally funded and managed by the Government;

“independent school” means a school wholly funded and managed from resources other than those of the Government;

“non-government educational institution” means an educational institution which is not owned or operated by the Government;

“physical” includes any unwanted contact between one student and another student including punching, pushing, shoving, kicking, slapping, tickling, head-locking, pranking and fighting;

“school” means an institution, whether Government owned or privately owned, which is lawfully registered to provide compulsory education and includes -

- (a) a unit for that purpose but established in an institution that caters to other categories of education;
- (b) a Government school, an assisted school and an independent school; or
- (c) an educational institution;

“school leader” means the Principal or any other person, by whatever name called, responsible for the day-to-day management of the school and for persons deployed to work at the school;

“school staff” means a person employed to work at the school and includes management staff, teaching staff, administrative staff, janitorial staff, grounds staff, transportation staff and security staff;

“student” means a person who is enrolled or attends classes at a school; and

“conduct which is verbal” or “conduct which is written” includes any statement which -

- (a) is expressed in profane language,
- (b) attaches an offensive or derogatory name to another person;
- (c) negatively comments on a person’s looks, clothes; body, sex, race, colour, language, religion, political or other opinion, national or social origin, age, mental or physical disability, property, birth or other status; or
- (d) involves mocking, taunting or teasing.

3. (1) Every school shall formulate an anti-bullying policy in accordance with this Law and any prescribed policy or guidelines. Anti-bullying policies

(2) An anti-bullying policy shall -

- (a) prohibit bullying -
 - (i) on school grounds;
 - (ii) on property immediately adjacent to school grounds;
 - (iii) at school-sponsored or school-related activities;
 - (iv) at school functions or programmes whether on or off school grounds;
 - (v) at school bus stops;
 - (vi) on school buses or other vehicles owned, leased or used by the school;

- (vii) through the use of electronic devices including those electronic devices owned, leased or used by a school;
- (b) prohibit retaliation against a person who -
 - (i) reports bullying;
 - (ii) provides information during an investigation of bullying; or
 - (iii) is a witness to or has reliable information about bullying;
- (c) provide for disciplinary penalties to be imposed against a student who engages in bullying or retaliation;
- (d) establish procedures and strategies for -
 - (i) reporting acts of bullying or retaliation;
 - (ii) responding promptly to and investigating reports of bullying or retaliation; and
 - (iii) restoring a sense of safety for a victim of bullying and assessing the victim's need for protection;
- (e) set out procedures for the provision of counseling or referrals to appropriate services for -
 - (i) students who have been the victims of bullying;
 - (ii) students who have engaged in bullying;
 - (iii) the family members of students who have been the subject of bullying; and
 - (iv) students who have witnessed incidents of bullying;
- (f) provide for programmes, interventions and other support mechanisms to be delivered by social workers, psychologists or other professionals who have relevant training;
- (g) provide for students to anonymously report bullying or retaliation;
- (h) impose disciplinary penalties against a student who knowingly makes a false accusation of bullying;
- (i) provide for the education of parents and guardians about bullying, the anti-bullying policies of the school and how parents and guardians can provide support and reinforce such anti-bullying policies at home;
- (j) provide for the education of students on bullying, the anti-bullying policies of the school, the systems for the anonymous reporting of acts of bullying or retaliation;
- (k) promote a positive school climate that is inclusive and accepting of all students irrespective of sex, race, colour, language, religion, political or other opinion, national or social origin, association, age, mental or physical disability, property, birth or other status;
- (l) require the utilisation of surveys to collect prescribed information on school bullying from its students, school staff, parents and guardians of the students at least once every year;

- (m) require the organisation of annual professional development programmes to educate teachers and school staff about bullying prevention and strategies for promoting a positive school climate;
- (n) require the maintenance of a record of relevant information and statistics on acts of bullying or retaliation in school and reports of bullying; and
- (o) contain any other prescribed requirements.

(3) Where a record is maintained under section 3(2)(n) the name of the student who was the victim of the bullying and the student who committed the act of bullying or retaliation shall be kept confidential and only made available to the school leader, teachers directly responsible for the students and parents or guardians of the students who are or have been victims of acts of bullying or retaliation and the student who is alleged to have engaged in the bullying or retaliation.

(4) A person who, without written authorisation of the school leader, discloses any information maintained pursuant to subsection (3) commits an offence and is liable on summary conviction to a fine of two thousand dollars.

(5) Every school shall provide students and where relevant, their parents or guardians with a copy of the anti-bullying policies of the school.

(6) Anti-bullying policies shall be conspicuously posted on the walls of the school and the official website of the school so that the anti-bullying policy may be brought to the attention of school staff, students, parents and legal guardians of students.

4. (1) The school leader shall be responsible for the implementation and oversight of this Law and any policies made thereunder to address bullying.

School leader responsibilities; staff and student reporting

(2) A member of the school staff shall immediately report to the school leader any act of bullying or act of retaliation witnessed by that member of the school staff, or that has come to the attention of the member of the school staff.

(3) A student shall immediately report to the school leader any act of bullying or act of retaliation directed towards or witnessed by that student, or that has come to that student's attention.

5. (1) If on receiving a report of bullying, the school leader believes that a student has been the subject of bullying or an act of retaliation as a result of a report made about bullying the school leader shall notify -

Notice to parent or guardian

- (a) the parent or guardian of the student and the parent or guardian of the student who is alleged to have engaged in the bullying or retaliation; and
- (b) the police if the school leader is of the opinion that the behaviour falls within the scope of the criminal law.

(2) A school leader shall not notify a parent or guardian of a student who is eighteen years of age or older and has been a victim of bullying unless that student consents to the notification.

(3) A school leader shall disclose the following when notifying a parent or guardian of a student -

- (a) the nature of the behaviour that constituted the bullying or retaliation;
- (b) the nature of the harm to the student;
- (c) the steps taken to protect the student;
- (d) the disciplinary penalties imposed in response to the bullying or retaliation; and
- (e) the support that will be provided for the student in response to the harm that resulted from the bullying or retaliation.

Informing the reporter

6. (1) After concluding an investigation into bullying, the school leader shall communicate the results of the investigation to the person who made the report unless, in the school leader's opinion, it would not be appropriate to do so.

(2) The school leader shall not disclose more information than is reasonably necessary for the purpose of communicating the results of a bullying investigation.

(3) Where an incident of bullying or retaliation involves students from more than one school, the school leader first informed of the bullying or retaliation shall promptly notify the school leader of the other school so that both may take appropriate action.

(4) A person who, without written authorisation of the school leader, discloses any information on the details and outcome of a bullying investigation commits an offence and is liable on summary conviction to a fine of two thousand dollars.

School registration;
reports to be submitted
to Department

7. (1) In addition to any other lawful requirements, a school shall not be registered to operate unless it provides the Department of Education Services with a copy of its anti-bullying policy, the contents of which shall be in accordance with this Law.

(2) A school shall update or revise its anti-bullying policies and procedures in accordance with a written request made by the Department.

(3) The Department of Education Services shall include in its training programmes, courses or activities which provide opportunities for school leaders and school staff to develop their knowledge and skills in preventing or responding to bullying.

(4) A school leader shall, on a quarterly basis, submit a written report to the Department of Education Services which contains details of -

- (a) all reported incidents of bullying;
- (b) the outcomes of the bullying investigations;
- (c) the measures utilised to deal with the bullying;
- (d) the outcomes of the measures utilised; and
- (e) any other matter that may be directed by the Department of Education Services or prescribed.

8. (1) A school leader or a member of the school staff who, without reasonable excuse, acts in contravention of the relevant provisions of this Law is liable to such administrative penalties as may be prescribed.

Administrative penalties
and de-registration

(2) A school which fails to enforce its anti-bullying policy is liable to be de-registered and to any other penalties as may be prescribed.

9. A person who has been the victim of bullying may institute civil proceedings in order to seek damages from all relevant parties and any other remedy that a court may see fit.

Civil remedy

10. Cabinet may make regulations prescribing all matters that are required to be prescribed, or are necessary to be prescribed for giving effect to the purposes of this Law including regulations prescribing -

Regulations

- (a) the policies and guidelines to be adopted with respect to bullying prevention and intervention in schools;
- (b) training for all school staff;
- (c) reporting of bullying;
- (d) the imposition of disciplinary penalties in response to bullying;
- (e) investigation of bullying reports;
- (f) quarterly reports on bullying occurrences;
- (g) the content of surveys on school bullying;
- (h) the maintenance of a record of relevant information and statistics on acts of bullying; and
- (i) all matters that may be necessary for giving effect to the administrative penalty system under this Law and the quantum of penalties for acting in contravention of this Law.

11. A school which was registered under the Education Law, 2016 prior to the commencement of this Law shall provide the Department of Education Services with a copy of its anti-bullying policy, the contents of which shall be in compliance with this Law, within three months after the date of the commencement of this Law.

Transitional provisions

Passed by the Legislative Assembly the day of , 2019.

Speaker.

Clerk of the Legislative Assembly.

CONSULTATION DRAFT 17th January 2019