

CAYMAN ISLANDS



Education Law, 2016

(Law 48 of 2016)

**ANTI-BULLYING (SCHOOLS)
REGULATIONS, 2020**

LAW REFORM COMMISSION FINAL REPORT RECOMMENDATIONS

PUBLISHING DETAILS

LAW REFORM COMMISSION FINAL REPORT RECOMMENDATIONS

CAYMAN ISLANDS**Education Law, 2016****(Law 48 of 2016)****ANTI-BULLYING (SCHOOLS) REGULATIONS,
2020****Arrangement of Regulations**

Regulation	Page
1. Citation	5
2. Definitions	5
3. Anti-bullying policy	6
4. Role of the Department, governing body and school leader	9
5. School staff and student reporting	9
6. Investigation and notice to parents	9
7. Investigation outcome	10
8. Disciplinary action against school leader and staff within Government school	11
9. Disciplinary action against school leader and staff within independent and assisted school	11
10. Reports to the Department, governing body, Ministry and Education Council	11
11. Transitional provisions	12

CAYMAN ISLANDS**Education Law, 2016****(Law 48 of 2016)****ANTI-BULLYING (SCHOOLS) REGULATIONS,
2020**

In exercise of the powers conferred by section 27A (1) and (3) of the Education Law, 2016 the Cabinet makes the following Regulations —

Citation

1. These Regulations may be cited as the Anti-Bullying (Schools) Regulations, 2020.

Definitions

2. (1) In these Regulations —

“**bullying**” means any repeated conduct by a student where the conduct is intended by that student to have the effect of, or that student ought to know that the conduct 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) damaging the property of another student;
- (d) placing another student in reasonable fear of damage to that student’s property;
- (e) creating an intimidating, threatening, hostile or abusive educational environment for another student;

- (f) disrupting the academic progress of another student;
- (g) damaging the reputation of another student; or
- (h) infringing on the rights of another student to participate in or benefit from any school activity or service;

“**conduct**” in relation to bullying, includes any action which is verbal, written, electronic or physical;

“**parent**” includes a legal guardian;

“**school staff**” includes a person employed to work at the school or a person who volunteers their time to provide a service at the school; and

“**student**” means a person who is enrolled or attends classes at a school.

- (2) In determining whether any repeated conduct constitutes an act of bullying all the circumstances of the conduct shall be taken into account.

Anti-bullying policy

3. (1) An anti-bullying policy shall include provisions which —
- (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 the school grounds;
 - (v) at school bus stops;
 - (vi) on school buses or other vehicles owned, leased or used by the school; and
 - (vii) through the use of electronic devices including those electronic devices owned, leased or used by a school;
 - (b) prohibit, for the purpose of bullying —
 - (i) engagement in any form of communication over a telecommunication network;
 - (ii) creation of a profile, web page or a blog in which the creator assumes the identity of another person;
 - (iii) impersonation of another person as the author of any form of communication whether disseminated online or otherwise; and
 - (iv) electronic communication of material or posting material on a website;
 - (c) prohibit, for the purpose of bullying, written or verbal communication or unwanted physical contact including —

- (i) the use of offensive or abusive language;
 - (ii) the attachment of an offensive or derogatory name to another person;
 - (iii) negatively commenting about a person's looks, clothes, body, sex, race, colour, language, religion, social class, political or other opinion, national or social origin, age, mental or physical disability, property, birth, sexual orientation, gender identity or any other status; and
 - (iv) mocking, taunting, teasing, insulting, touching, harassing, embarrassing, ostracising and sending insensitive messages;
- (d) prohibit retaliation against a person who —
- (i) reports bullying;
 - (ii) provides information during an investigation about bullying; or
 - (iii) is a witness to or has information about bullying;
- (e) 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;
- (f) establish procedures for the provision of counseling or referrals to appropriate services for —
- (i) a student who has been the victim of bullying;
 - (ii) a student who has engaged in bullying;
 - (iii) the family members of a student who has been the victim of bullying;
 - (iv) the family members of a student who has engaged in bullying; and
 - (v) a student who has witnessed an incident of bullying;
- (g) provide for programmes, interventions and other support mechanisms to be delivered to the school staff, students and parents by social workers, psychologists or other professionals who have relevant training and qualifications;
- (h) provide for students to anonymously report bullying or retaliation;
- (i) provide for the education of parents about bullying, the anti-bullying policies of the school and how parents can provide support and reinforce such anti-bullying policies within the household;

- (j) provide for the training and education of school staff about bullying, the anti-bullying policies of the school and actions required to be taken by school staff to prevent and respond to bullying behaviour;
 - (k) provide for the education of students on bullying, the anti-bullying policies of the school and the systems for the anonymous reporting of acts of bullying or retaliation;
 - (l) provide for the education of students, parents and school staff on the connection between mental issues and bullying conduct;
 - (m) promote a positive school climate that is inclusive and accepting of all students irrespective of sex, race, colour, language, religion, social class, political or other opinion, national or social origin, association, age, mental or physical disability, property, birth, sexual orientation, gender identity or other status;
 - (n) require the utilisation of surveys to collect information on school bullying from its students, school staff and parents of the students at least once every year;
 - (o) provide for professional development programmes to educate teachers and school staff about bullying prevention and strategies for promoting a positive school climate;
 - (p) require the maintenance of a record of relevant information and statistics on acts of bullying or retaliation in school and reports of bullying;
 - (q) contain any other requirements stipulated by the Department or the Ministry;
 - (r) provide for disciplinary penalties to be imposed against a student who engages in bullying or retaliation as a result of a report made about bullying including —
 - (i) detention;
 - (ii) suspension;
 - (iii) expulsion; and
 - (iv) exclusion.
 - (s) provide for appropriate action to be taken against a student who —
 - (i) witnesses conduct which may constitute bullying or retaliation and fails to make a report to the school leader or a member of the school staff; or
 - (ii) makes a false allegation of bullying or retaliation knowing there is no basis to make the allegation.
- (2) A school shall provide school staff, students and parents with a copy of the anti-bullying policy of the school.

- (3) A school shall post the anti-bullying policy of the school on the walls and the official website of the school in a manner which allows for the anti-bullying policy to be brought to the attention of school staff, students and parents.

Role of the Department, governing body and school leader

4. (1) The role of the Department, in the case of a Government school and the governing body, in the case of an assisted or independent school shall include —
- (a) the establishment of procedures to ensure that anti-bullying policies are formulated in accordance with these Regulations and any national policy on anti-bullying;
 - (b) the establishment of oversight mechanisms to ensure that anti-bullying policies are implemented and observed;
 - (c) the establishment of systems to receive and deal with reports from schools on incidents of bullying; and
 - (d) the provision of training opportunities for school leaders, school staff, students and parents to develop their knowledge and skills in recognising, preventing and responding to bullying.
- (2) A school leader shall be responsible for the implementation and oversight of these Regulations and the policies to respond to bullying.

School staff and student reporting

5. (1) A member of the school staff shall have a general duty of care towards a child in a school and shall immediately report to the school leader any act of bullying or act of retaliation that —
- (a) has been witnessed by, or that has come to the attention of, that member of the school staff; or
 - (b) the member of the school staff reasonably suspects to have occurred.
- (2) A student shall immediately report to the school leader or member of the school staff any act of bullying or act of retaliation witnessed by that student, or that has come to that student's attention.
- (3) A report made under this regulation shall be supported by a written statement of the observations, information and opinions surrounding the act of bullying or act of retaliation.

Investigation and notice to parents

6. (1) A school leader shall —
- (a) on receiving a report of an allegation of bullying or retaliation ;
 - (b) on receiving a report with respect to a suspicion of bullying or retaliation;
- or

- (c) on witnessing conduct which appears to be bullying or retaliative action, immediately investigate the circumstances surrounding the conduct and take such measures as are appropriate to protect the victim during the course of the investigation.
- (2) A school leader shall, within twenty-four hours of receiving a report under paragraph (1) notify —
- (a) the parents of the students involved in bullying or retaliative conduct if in the opinion of the school leader doing so would not result in harm to either the student bullied or the student accused of bullying; and
 - (b) any other relevant agency if the school leader is of the opinion that the issues identified in the report could be dealt with more effectively by another agency.
- (3) The information to be disclosed by a school leader when providing a notification under paragraph (2) shall include —
- (a) the day on and if known the time at which the bullying or retaliation incident occurred;
 - (b) the nature of the conduct that constituted the bullying or retaliation;
 - (c) the nature of the harm to the student who was the victim of the bullying or retaliative conduct; and
 - (d) the measures taken or to be taken to respond to the report.
- (4) A school leader may refer a bullying incident to the Department or the governing body for guidance.

Investigation outcome

7. (1) After concluding an investigation, the school leader shall, within seventy-two hours, communicate the outcome of the investigation to —
- (a) the parents of the students who were the subject of the investigation; and
 - (b) the person who made the report unless the school leader is of the opinion that it would not be appropriate to do so.
- (2) The communication made under paragraph (1) shall include —
- (a) the findings on whether the allegations of bullying and retaliation are substantiated;
 - (b) the steps taken or proposed to be taken to protect the student who was bullied or retaliated against;
 - (c) the support that will be provided to —
 - (i) the victim in response to the harm that resulted from the bullying or retaliation; and
 - (ii) the student who engaged in the bullying or retaliation; and

- (d) the disciplinary penalties, if any, imposed or to be imposed in response to the bullying or retaliation.
- (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 within twenty-four hours, notify the school leader of the other school so that both may take appropriate action.
- (4) A school leader shall notify the relevant authority where a parent refuses to participate in any bullying intervention program and it is believed that the interests of the student might be adversely affected.

Disciplinary action against school leader and staff within Government school

- 8.** A school leader or a member of the school staff within a Government school who fails, without reasonable cause, to comply with their obligations under these Regulations and the anti-bullying policy of the school is liable to such disciplinary action as may be determined by the Department including —
- (a) in the case of a member of the school staff who is a civil servant, action permissible under the *Public Service Management Law (2018 Revision)* and the *Personnel Regulations (2019 Revision)*; and
 - (b) in the case of all other members of the school staff, suspension or termination of service.

Disciplinary action against school leader and staff within independent and assisted school

- 9.** A school leader or a member of the school staff within an independent and assisted school who fails, without reasonable cause, to comply with their obligations under these Regulations and the anti-bullying policy of the school is liable to such disciplinary action as may be determined by the governing body of that school including the suspension or termination of service of the school leader or the member of the school staff.

Reports to the Department, governing body, Ministry and Education Council

- 10.** (1) A school leader shall update or revise the anti-bullying policies and procedures of the school in accordance with a written request made by the Department, the governing body, the Ministry or the Education Council.
- (2) A school leader shall, at the end of each school term but not later than the commencement of the subsequent school term submit a written report to the Department, in the case of a government school or to the the governing body, in the case of an assisted and an independent school, containing details of —
- (a) all reported incidents of bullying or retaliation;

- (b) the outcome of the bullying and retaliation investigations;
 - (c) the disciplinary penalties imposed or other disciplinary action taken against a student;
 - (d) the measures utilised to counsel the victim and the person who engaged in the bullying;
 - (e) the measures and outcome of the measures employed to prevent a recurrence of the bullying;
 - (f) the measures imposed against a school leader, a member of the school staff or a parent for acting in contravention of the regulations; and
 - (g) any other matter that may be required by the Department or the governing body.
- (3) Reports received under paragraph (2) shall be submitted to the Ministry and the Education Council for review and any other action that the Ministry, after consultation with the Education Council, deems appropriate.

Transitional provisions

11. A school which was registered under the *Education Law, 2016* prior to the commencement of these Regulations shall, within nine months after the date of the commencement of these Regulations —
- (a) ensure that the anti-bullying policy of the school is formulated in accordance with these Regulations; and
 - (b) shall submit its Anti-Bullying Policy for approval by –
 - (i) the Department, in the case of a Government school;
 - (ii) the governing body of an assisted or independent school; and
 - (iii) the Ministry and the Education Council.

Made in Cabinet the day of , 2020.

Clerk of the Cabinet