

**CAYMAN ISLANDS**



**Education Law, 2016**

**(Law 48 of 2016)**

**ANTI-BULLYING (SCHOOLS)  
REGULATIONS, 2019**

LAW REFORM COMMISSION CONSULTATION DRAFT 12TH JULY, 2019

## PUBLISHING DETAILS

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# **ANTI-BULLYING (SCHOOLS) REGULATIONS, 2019**

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**ANTI-BULLYING (SCHOOLS) REGULATIONS,  
2019**

In exercise of the powers conferred by section 27A(2) of the Education Law, 2016 the Cabinet makes the following Regulations —

**Citation**

1. These Regulations may be cited as the Anti-Bullying (Schools) Regulations, 2019.

**Definition**

2. 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) 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;

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

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

“**school staff**” includes management staff, teaching staff, counselling staff, administrative staff, janitorial staff, grounds staff, transportation staff, security staff and any other person employed to work at the school; and

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

### 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 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 web page or a blog in which the creator assumes the identity of another person;
    - (iii) impersonation of another person as the author of content or messages posted online; and
    - (iv) electronic communication of material or posting material on a website that may be accessed by one or more individuals;
  - (c) prohibit, for the purpose of bullying, written, verbal communication or unwanted physical contact including —
    - (i) the use of profane 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, political or other opinion, national or social origin, age, mental or physical disability, property, birth or other status; or
  - (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 reliable information about bullying;
- (e) 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;
  - (iv) exclusion; and
  - (v) community service;
- (f) 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;
- (g) 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; and
  - (iv) a student who has witnessed an incident of bullying;
- (h) provide for programmes, interventions and other support mechanisms to be delivered by social workers, psychologists or other professionals who have relevant training;
- (i) provide for students to anonymously report bullying or retaliation;

- (j) 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 at home;
  - (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) 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;
  - (m) 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;
  - (n) 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;
  - (o) require the maintenance of a record of relevant information and statistics on acts of bullying or retaliation in school and reports of bullying; and
  - (p) contain any other requirements stipulated by the Department or the Ministry.
- (3) A school shall provide school staff, students and parents with a copy of the anti-bullying policy of the school.
- (4) A school shall post the anti-bullying policy of the school on the walls of the school and on the official website of the school so that the anti-bullying policy may be brought to the attention of school staff, students and parents.

### **Role of the Department and governing body**

4. The role of the Department and governing body 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.



**School leader responsibilities; staff and student reporting**

5. (1) A school leader shall be responsible for the implementation and oversight of these Regulations and the policies to respond to bullying.
- (2) A member of the school staff shall, as soon as reasonably practicable, report to the school leader any act of bullying or act of retaliation witnessed by, or that has come to the attention of, that member of the school staff.
- (3) A student shall, as soon as reasonably practicable, 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.

**Notice to parents**

6. (1) A school leader shall —
- (a) on receiving a report of an allegation of bullying or retaliation; or
  - (b) on witnessing conduct which appears to be bullying or retaliative action, immediately investigate the circumstances surrounding the conduct.
- (2) A school leader shall notify —
- (a) the parents of the students involved in bullying or retaliative conduct;
  - (b) the police, if the school leader is of the opinion that the conduct falls within the scope of the criminal law; and
  - (c) any other relevant agency.
- (3) A school leader shall not notify the parents of a student who is eighteen years of age or older and has been a victim of bullying or retaliation unless that student consents to the notification.
- (4) A school leader shall disclose the following information when notifying the parents of a student with respect to an investigation into conduct relating to bullying or retaliation —
- (a) the nature of the conduct that constituted the bullying or retaliation; and
  - (b) the nature of the harm to the student who was the victim of the bullying or retaliative conduct.
- (5) A school leader may refer a bullying incident to the Department or the Governing Body for directions.

**Investigation outcome**

7. (1) After concluding an investigation, the school leader shall 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 steps taken or proposed to be taken to protect the student who was bullied or retaliated against;
  - (b) the disciplinary penalties imposed or to be imposed in response to the bullying or retaliation; and
  - (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.
- (3) The school leader shall not disclose more information than is reasonably necessary for the purpose of communicating the outcome of a bullying investigation.
- (4) 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.

### **Reports to the Department, Ministry and Education Council**

8. (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 Ministry or the Education Council.
- (2) A school leader shall, on a quarterly basis, submit a written report to the Department, in the case of a government school or the Ministry, in the case of all other schools, 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 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 penalties imposed against a school leader, a member of the school staff or a parent; and
  - (g) any other matter that may be required by the Department or the Ministry.
- (3) Reports received under paragraph (2) shall be submitted to the Education Council for review and any other action the Education Council deems appropriate.

**Administrative Penalties against school leader, staff and parents**

9. (1) A school leader or a member of the school staff who fails, without reasonable cause, to comply with their obligations under these Regulations and the anti-bullying policy of the school is liable to —
- (a) a penalty of three thousand dollars; and
  - (b) such other disciplinary action as may be determined by the Department or the Ministry.
- (2) A parent who fails to demonstrate that reasonable measures have been put in place to ensure that that parent's child complies —
- (a) with these Regulations;
  - (b) the anti-bullying policy of the school; or
  - (c) any instructions given by the school leader in relation to the conduct of that parent's child,
- is liable to a penalty of one thousand dollars.
- (3) The penalties referred to in paragraphs (1) and (2) are administrative penalties which may be imposed by the Department or the Ministry.
- (4) The Department or the Ministry shall not impose a penalty on a school leader, member of the school staff or parent if the Department or the Ministry is satisfied that the school leader, member of the school staff or parent took all reasonable steps and exercised due diligence to ensure compliance with the provisions of these Regulations and the anti-bullying policy of the school.
- (5) The Department or the Ministry, in deciding whether to impose a penalty on a school leader, member of the school staff or parent, shall take into account the following matters —
- (a) the nature and seriousness of the contravention;
  - (b) the ability of the school leader, member of the school staff or parent to pay the penalty; and
  - (c) such other matters as the Department or the Ministry considers appropriate.
- (6) Where a school leader, member of the school staff or parent fails to comply with more than one provision of these Regulations or the anti-bullying policy of the school and becomes liable to more than one penalty, the Department or the Ministry may compound the penalties.
- (7) The Department or the Ministry may recover a penalty imposed by virtue of this regulation in civil proceedings as a debt.
- (8) An administrative penalty imposed by virtue of these Regulations shall form part of the general revenue of the Islands.

**Procedure to be followed by the Department and Ministry**

10. (1) The Department or the Ministry shall, before imposing a penalty, provide written notice to the school leader, member of the school staff or parent stating —
- (a) the intention to impose a penalty and the reason for the intention to impose the penalty;
  - (b) the amount of the proposed penalty; and
  - (c) the entitlement of the person to make representations to the Department or the Ministry in accordance with paragraph (2).
- (2) Where the school leader, member of the school staff or parent receives a notice under paragraph (1), that school leader, member of the school staff or parent may, within twenty-one days from the date of the notice, make representations to the Department or the Ministry indicating why the school leader, member of the school staff or parent should not be required to pay the penalty or why the proposed penalty should be reduced.
- (3) The Department or the Ministry may, at any time prior to the issuance of a notice under paragraph (1), withdraw the notice and substitute a new notice stating a different penalty.
- (4) The Department or the Ministry shall notify the school leader, member of the school staff or parent of the decision under paragraph (3) and where the Department or the Ministry varies the penalty, of the further steps, if any, taken in relation to the school leader, member of the school staff or parent.
- (5) Before imposing a penalty on the school leader, member of the school staff or parent the Department or the Ministry shall consider any representations received under paragraph (2).
- (6) Subject to paragraphs (2) and (7), a school leader, member of the school staff or parent who receives a notice shall pay the penalty stated in the notice to the Department or the Ministry within such period as the Department or the Ministry may determine.
- (7) The Department or the Ministry may agree to the payment of a penalty in installments over such period of time as the Department or the Ministry considers appropriate.

**Appeal against administrative penalty**

11. A school leader, member of the school staff or parent who is dissatisfied with a decision of the Department or the Ministry in relation to the imposition of a penalty —
- (a) may, within fourteen days of receiving the notice under regulation 10(1), submit in writing a request for the Department or the Ministry to reconsider the decision; or

- (b) may, if the Department or the Ministry elects not to reconsider its decision or maintains its decision after reconsideration, within twenty-one days of the date on which the Department or the Ministry informed the school leader, member of the school staff or parent of its decision under paragraph (a), appeal to the court.

### **Transitional provisions**

- 12.** A school which was registered under the Education Law, 2016 prior to the commencement of these Regulations shall, within three months after the date of the commencement of these Regulations —
- (a) ensure that the school’s anti-bullying policy is formulated in accordance with these Regulations; and
- (b) provide the Department, the Ministry and the Education Council with a copy of the school’s anti-bullying policy.

**Made in Cabinet the \_\_\_\_\_ day of \_\_\_\_\_, 2019.**

*Clerk of the Cabinet*