

# CLIENT NEWS BRIEF

## Cyberbullying: New Bill Confirms that Students May be Disciplined for Either Creating or Sending Electronic Bullying Content

Addressing an inadvertent drafting error in prior legislation, a new bill was recently signed by Governor Brown that clarifies that a student may be disciplined for either the *creation or transmission* of electronic bullying content while on or off of school grounds. Assembly Bill (AB) 881, effective January 1, 2016, further amends the definition of "electronic act" in Education Code section 48900 by changing the phrase "creation and transmission" to "creation or transmission." This edit takes away an argument that a student must be both the creator and the transmitter of the bullying content to be subject to discipline under the Education Code.

AB 881 follows numerous amendments to Education Code section 48900 regarding bullying (see Lozano Smith Client News Brief Nos. [77 \(2013\)](#), [42 \(2012\)](#), [62 \(2011\)](#), and [32 \(2011\)](#)), and continues the legislative focus on electronic misconduct by students. While this statutory clarification assists school districts in protecting students against bullying in the online world, it does not eliminate the complicated due process, jurisdiction, and free speech issues that must be considered when carrying out a suspension or expulsion for cyberbullying activity. Bullying discipline cases will remain fact-specific, and tied very closely to finding one of the four statutorily required harmful effects related to the misconduct.

Through both our [Student Practice Group](#) and our [Technology and Innovation Practice Group](#), Lozano Smith continues to provide school districts with comprehensive trainings and advice to address legal needs related to students and technology. If your district has questions regarding its policy framework related to discipline for bullying, or you are interested in one of the many trainings provided by Lozano Smith regarding student and technology issues, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).

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Thomas R. Manniello  
Partner and Student  
Practice Group Co-Chair  
Monterey Office  
tmanniello@lozanosmith.com



Benjamin C. Rosenbaum  
Associate and Student  
Practice Group Co-Chair  
Fresno Office  
brosenbaum@lozanosmith.com



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