

## New Bill Again Amends Definition Of “Electronic Act” For Purposes Of Bullying Prohibitions

In an attempt to address specific types of cyberbullying, this week Governor Jerry Brown signed Assembly Bill (AB) 1732, modifying the definition of “electronic act” for purposes of the Education Code’s bullying prohibitions.

Following the implementation of the new bullying policy requirements, which took effect July 1 of this year ([see Lozano Smith Client News Brief No. 22](#)), AB 1732 adds further details to make it explicit that “electronic act” includes the social network activity of: (1) creating a credible impersonation of a student with ill intent; (2) creating a false student profile with ill intent; or (3) creating or posting to a “burn page.” Burn pages, a newer phenomenon in popular culture, are Internet sites created to lampoon or ridicule an individual or individuals.

With these additions, Education Code section 48900 expressly provides that a pupil who severely or pervasively engages in such electronic acts may be punished if such an act causes a student to fear harm to his or her person or property, causes substantial harm to a student’s physical or mental health, causes substantial interference with a student’s academic performance, or causes substantial interference with a student’s ability to participate in or benefit from school services, activities, or privileges.

Additionally, AB 1732 provides clarification of the meaning of “pervasive” under the statute, providing that “an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.”

While these amendments provide greater specificity with regard to the types of online behaviors that may be punished under the bullying provisions of the Education Code, they do not provide guidance regarding the potential jurisdictional questions that districts may face in attempting to address off-campus online activity, i.e., where a school lacks jurisdiction to discipline for off-campus conduct or electronic acts under Education Code section 48900, subdivision (s). Districts faced with such questions are encouraged to seek the guidance of legal counsel because even with these amendments, the question of when a district can punish a student for online activity remains a difficult one to answer.

# CLIENT NEWS BRIEF

July 2012  
Number 42

Lozano Smith has assisted school districts in adopting policies and procedures to meet the Education Code bullying requirements, and can help ensure that this new definition is properly incorporated within districts' discipline processes. If you have any questions regarding these changes and any required board policy and administrative regulation updates, please feel free to contact one of our [eight offices](#) located statewide. You can also visit our [website](#) or follow Lozano Smith on [Facebook](#).

*Written by:*

[Sloan R. Simmons](#)

Shareholder and Student Practice Group Co-Chair  
Sacramento Office

[ssimmons@lozanosmith.com](mailto:ssimmons@lozanosmith.com)

[Benjamin C. Rosenbaum](#)

Associate  
Fresno Office

[brosenbaum@lozanosmith.com](mailto:brosenbaum@lozanosmith.com)



*As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.*