

CLIENT NEWS BRIEF

Discipline for Cyber Bullying Gets an Upgrade

On September 21, 2016, Governor Jerry Brown signed into law two new bills that will become effective January 1, 2017, amending sections 234.2 and 48900 of the Education Code relating to cyber bullying.

The new laws expressly include video as an electronic means by which bullying can occur. Students can now also be suspended or expelled if "cyber sexual bullying" is committed, and local education agencies are encouraged to inform students that information and resources about cyber sexual bullying are available on the California Department of Education's website.

Assembly Bill (AB) 2212: "Video" Included in Definition of "Bullying via Electronic Act"

AB 2212 amends section 48900 of the Education Code to add "video" to the definition of bullying via an "electronic act." (Ed. Code, § 48900(r)(2)(A)(i).) Under existing law, the definition of "electronic act" only includes the transmission of a "message, text or image." Arguably, under the existing definition, schools are already permitted to suspend or recommend expulsion of a student who bullies via transmission of a video because a video is an "image." But the amendment updates the law so there is no gray area regarding whether a student can be suspended or expelled for bullying by transmitting a video.

Assembly Bill (AB) 2536: Cyber Sexual Bullying is now a Suspendable/Expellable Offense and California Department of Education Must Include Cyber Sexual Bullying Information and Resources on its Website

AB 2536 amends Education Code sections 48900 and 234.2. Specifically, section 48900 will be amended to include "cyber sexual bullying" as a form of bullying via electronic means.

"Cyber sexual bullying" is defined as:

- the dissemination of, or the solicitation or incitement to disseminate;
- a photograph or other visual recording [which shall include the depiction of a nude, semi-nude or sexually explicit photograph or other visual recording or a minor where the minor is identifiable from the same or other electronic act];
- by a pupil to another pupil or to school personnel;
- by means of an electronic act [as defined in this section];
- that has or can be reasonably predicted to have;
- one or more of the effects [of bullying as defined in 48900].

"Cyber sexual bullying" does not include "a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities."

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In addition, AB 2536 amends Education Code section 234.2 to require the California Department of Education to include cyber sexual bullying information on its website; annually inform school districts where such information is posted; and encourage schools to notify students regarding the availability of information on the California Department of Education's website.

For more information on cyber sexual bullying and student discipline or student discipline in general, please contact the authors of this Client News Brief or an attorney at one of our [10 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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