

CALIFORNIA'S CONTINUED EFFORTS TO CURB CYBERBULLYING ARE ADVANCED BY THE PASSAGE OF AB 1732

In 2007, the National Association of Attorneys General Task Force issued a report on School and Campus Safety which warned:

“The growth in the use of technology and social networking sites by younger Americans has fueled a fear among professionals that cyber bullying will become most often utilized to harass, threaten or otherwise cause distress.”

The task force urged educators, parents, law enforcement and other stakeholders in school safety to remain vigilant in addressing bullying, including cyber bullying. In the last few years, the California legislature has acted on that warning, with the passage of several laws targeting cyber bullying, including AB 1732, which was signed by Governor Jerry Brown on July 23, 2012.

BACKGROUND

Engaging in an act of bullying as defined by the California Education Code is an act that may result in either suspension or expulsion from school. AB 1732 builds on two statutes enacted in 2011. AB 1156 (Chapter 732, Statutes of 2011) amended the Education Code definition of bullying to mean any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act. AB 746 (Chapter 72, Statutes of 2011) defined an “electronic act” to include messages, texts, sounds or images posted on a social network Web site.

NEW LAW

AB 1732 specifies that bullying via an electronic act using a post on a social network Web site includes:

- Posting to or creating a “burn page”;
- Creating a “credible impersonation” of another pupil; and
- Creating a “false profile.”

A “burn page” is defined by the new law as a Web site created for the purpose of having one or more of the following effects:

1. Placing a reasonable pupil or pupils in fear of harm to their person or property.
2. Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health,
3. Causing a reasonable pupil to experience substantial interference with his or her academic performance, or,

4. Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

“Credible impersonation” means knowingly and without consent impersonating a pupil for purposes of bullying another pupil with the intent of having one of the four effects outlined above. A credible impersonation under the new law must be such that another pupil would reasonably believe, or has reasonably believed that the pupil creating the impersonation was or is the pupil who was impersonated.

A “false profile” is a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile. Again, the purpose of doing so must have been for the purpose of having one of the four effects outlined above on another pupil.

Pupils may not be suspended or expelled for these acts unless the act is related to school activity or school attendance. However, the acts do not have to happen on school grounds nor do they have to happen during school hours for them to be punishable.

RESOURCES

The California Department of Education has published a list of bullying prevention resources on its Web site, which can be found at: <http://www.cde.ca.gov/ls/ss/se/bullyingprev.asp>

On the Keenan P&C Bridge, you can access free on-demand recorded webinars held by a variety of experts on bullying, including:

- Effective Strategies in Bullying Prevention
- Internet Safety Series: Cyberbullying Toolkit: Educate Kids to be Upstanders
- Bullying, Bullycide and Suicide: Keys to Prevention

To access recorded webinars, members should log into P&C Bridge, access the Keenan U tab and click into webinars section.

Additionally, Keenan offers the Keenan SafeSchools online safety training and tracking program as a resource to K-12 schools. The following courses are currently available to help school districts proactively address electronic bullying and online safety:

Bullying: Recognition and Response (1 hour full course / 18 minutes refresher)

The Keenan SafeSchools *Bullying: Recognition and Response* course trains staff how to recognize and react to bullying situations. The course helps users understand the complexities of bullying by examining its characteristics, development, and underlying causes. It also discusses the roles of victims, bullies, and bystanders, and offers ways for staff to deal with each.

Online Safety Overview: What Every Educator Needs to Know (15 minutes)

Online Safety Overview: What Every Educator Needs to Know is a condensed approach to cover the growing dangers that can entrap students when they are "online" or accessing the Internet. The course begins with an overview

of the many ways kids communicate online. The instruction centers on the three key online safety dangers of cyberbullying, online predators, and the communication of pre-meditated violence in the school setting.

Online Safety: Cyberbullying (24 minutes)

Online Safety: Cyberbullying covers the ways in which students exploit technology in order to harm others. The course begins with an overview of the many ways kids communicate online. The instruction centers on the three criteria of bullying, legal limitations faced by schools and how to handle a cyberbullying situation.

CIPA Compliance: Children's Internet Protection Act (15 minutes)

This course provides an overview of the Children's Internet Protection Act (CIPA) that's appropriate for any school staff member. The course describes the law as well as the latest FCC compliance regulations for schools seeking E-rate discounts on Internet service – including information on cyberbullying and appropriate online behavior. Course-takers will learn CIPA's requirements as well as the steps that must be taken to fulfill the FCC's latest regulations.

For more information about P&C Bridge or the Keenan SafeSchools online courses, please contact your Keenan account manager.

Keenan & Associates is not a law firm and no opinion, suggestion, or recommendation of the firm or its employees shall constitute legal advice. Clients are advised to consult with their own attorney for a determination of their legal rights, responsibilities and liabilities, including the interpretation of any statute or regulation, or its application to the clients' business activities.