

# SB 179

## WHAT YOU NEED TO KNOW ABOUT DAVID'S LAW—THE NEW ANTI-BULLYING BILL.

JUNE 5, 2017 JIM WALSH

“David’s Law”—S.B. 179—is one of the new laws that will have a major impact on the day-to-day operation of your school. Here are several things you need to know about this new law, which will go into effect on September 1, 2017.

1. It makes it clear that bullying does not have to involve a pattern of repeated behavior. “A single significant act” might be sufficient to meet the definition of “bullying.”
2. Our definition of bullying has always required that there be an effect on the target. That effect could be physical harm, or the threat of it; or damage to property; or an “intimidating, threatening, or abusive educational environment.” The new law adds to this, by stating that it is “bullying” if the behavior “materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or infringes on the rights of the victim at school.”
3. Cyberbullying off campus is expressly included in the definition of bullying if it “interferes with a student’s educational opportunities” or “substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity.”
4. Notice of alleged bullying must be given to the parent of the target on or before the third business day after the incident is reported. The alleged bully’s parent is to be notified within a “reasonable time.”
5. Your school policy must include a method for students to report bullying anonymously.
6. Chapter 37 is amended to allow for expulsion or DAEP for a student who 1) engages in bullying that encourages suicide; 2) incites violence through group bullying; or 3) releases or threatens to release “intimate visual material” of a minor or an adult student without consent.
7. After an investigation is completed, the principal may report to law enforcement if the principal has reasonable grounds to believe that a student has engaged in assault or harassment. “Harassment” in this context means sending repeated e-communications in a manner likely to “harass, annoy, alarm, abuse, torment, embarrass or offend another.” Principals enjoy immunity from liability and from disciplinary action when making such a report. This duty can be delegated to another staff member, but not the school counselor.
8. Open enrollment charter schools must adopt anti-bullying policies and can enact the disciplinary penalties called for in the law for bullying.
9. TEA will create a website providing resources for educators working with students with mental health conditions, and continuing education for teachers and administrators may include information about how grief and trauma affect students.
10. School counselors’ duties will include serving as an “impartial, nonreporting conciliator for interpersonal conflicts and discord involving two or more students arising out of accusations of bullying.” “Nonreporting” in

this context means that the counselor does not report to law enforcement. Other reports, such as for suspected child abuse, may be necessary.

11. Parents or students can obtain injunctive relief to stop and/or prevent cyberbullying of a minor. This relief could be against the student bully, or the parents of a bully who is under 18. Forms in plain language will be readily available in English and Spanish to enable people to seek this relief. Plaintiffs can obtain injunctive relief by proving that cyberbullying has occurred—they will not be required to prove all of the elements normally required to obtain an injunction.

12. The Health and Safety Code is amended to authorize schools to develop practices and procedures regarding mental health, including “grief-informed and trauma-informed” practices, and skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making.”

13. Criminal penalties are enhanced for harassment by e-communication that is done with the intent that the target will commit suicide or engage in conduct causing serious bodily injury to self.