



Cayman Islands
Human Rights Commission

promoting, protecting and preserving human rights

Ref: HRC-RES-EDU-BULLYING

Mr Jose Griffith
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CAYMAN ISLANDS

Via E-mail: jose.griffith@gov.ky

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Dear Mr. Griffith,

As you will be aware, the primary responsibility of the Human Rights Commission (“the HRC”) is to promote understanding and observance of human rights in the Cayman Islands. In order to fulfil this constitutional remit the HRC chooses to avail itself of opportunities to review draft legislation. As such the HRC has now completed a review of the Education (Amendment) Bill, 2019 & Draft Anti-bullying (Schools) Regulations, 2019 (“the Bill”) and takes this opportunity to set out its concerns and observations regarding the content of said draft legislation.

Education (Amendment) Bill, 2019 & Draft Anti-bullying (Schools) Regulations, 2019

1. Definition – S.2 (page 5)

- a. “Bullying” currently refers to students only, but the HRC queries whether staff/teachers should not also be included in this definition (unless there are other laws or regulations governing staff/teachers on this subject). It is noted that staff/teachers can be involved in bullying themselves either as victims or perpetrators, either amongst themselves or with students.
- b. “Social harm” as described in the definition of “bullying” may need a formal definition.

2. Anti-bullying Policy – S.3 (page 6)

- a. It is understood that this Bill refers exclusively to schools. However, as it would be feasible to scale this legislation up (with Cayman being such a small jurisdiction), has it been considered to extend the parts of this legislation that would not fall under the Penal Code into non-school premises?

- b. In outlining the requirements of an anti-bullying policy in sub-section 3(1)(b)(iv) of the Bill, include "forum, group chat" (such as WhatsApp groups and/or online gaming forums, peer-to-peer online games, etc.) along with the current "posting material on a website".
- c. The list in sub-section 3(1)(c)(iii) of the Bill appears to be largely taken from s.16 of the Bill of Rights, Freedoms and Responsibilities in Part 1 of the Cayman Islands Constitution Order, 2009. However, it is missing "association with a national minority" and has added "looks, clothes, body". If categories for discrimination are being added to those duplicated from s.16 of the Bill of Rights, the HRC would further suggest the following are also appropriate to add: "sexual orientation", and "gender identity".
- d. In sub-section 3(1)(e) it is suggested to include "teachers" here as a category of person capable of engaging in bullying.
- e. In sub-section (3)(1)(g) of the Bill it is suggested that it would also be appropriate to include "the family members of a student who has engaged in bullying" as a category of persons possibly requiring counselling or other services.
- f. The comments in above paragraph 2.c. of this letter should also apply to sub-section (3)(1)(l) of the Bill.
- g. In sub-section 3(1)(n) of the Bill the HRC suggests that parents/families and the wider school community may also benefit from "programmes to educate teachers and school staff about bullying prevention and strategies for promoting a positive school climate" as a way of helping reduce incidents of bullying.
- h. In sub-section 3(4) of the Bill the HRC suggests being more specific about the physical locations where bullying policy notices are posted (e.g. in the library, cafeteria, common areas, bathrooms, etc.)

3. Notice to Parents – S.6 (page 9)

- a. In sub-section 6(2) of the Bill the HRC suggests stating that the notification should be made in writing.
- b. Sub-section 6(3) of the Bill this should also apply to bullying perpetrators (in addition to victims) over the age of eighteen, unless the behaviour could also be considered criminal.

4. Reports to the Department, Ministry and Education Council – S.8 (page 10)

- a. In sub-section 8(2) of the Bill, it is noted that schools do not operate by quarter, so it is suggested that reports occur once per school term, or perhaps twice per year (e.g. in December and June).

5. Administrative Penalties against school leader, staff and parents – S.9 (page 11)

- a. In sub-section 9(1) of the Bill, "School leader" is not defined in the Definitions. Is this intended to relate to Principals, Deputy Principals, etc., or to specific teachers who have been appointed the "School leader in relation to bullying"?
- b. In sub-section 9(1) of the Bill, does school staff include the school board, trustees, governing body, etc.?

General Comments

1. Regarding investigations and reports of bullying (sections 7 and 8 of the Bill), it should be ensured that cases where allegations of bullying are disproven, or are proven to be invalid, these should also be captured and recorded.
2. As the purpose of the Bill appears unclear at times (e.g. to identify bullies, or to prevent bullying, for example) the HRC suggests that whatever purpose is identified it should be kept at the forefront when considering any revisions to the Bill in order ensure consistency.
3. The HRC suggests identifying a specific role for the individual at the Departmental/Ministerial level who is administratively responsible for requesting and receiving reports, imposing penalties, processing appeals, etc.

The HRC's review should not be considered as a substitute for legal advice. For any queries on this review please contact info@humanrightscommission.ky or 244-3685.

Kind regards,



PP Dale Crowley
Chairman