

Texting, “Sexting,” and the Internet

Many children communicate with their friends and other children through text messages and the internet. If these interactions fit the description of bullying they may be considered “cyber bullying” and the school is required to treat this behavior the same way it treats any other bullying.

Also, if a child sends words or pictures to another child that are obscene or considered harmful to minors, he could be breaking the law including possession or dissemination of child pornography; possession or dissemination of obscene matter; or possession or dissemination of matter harmful to minors. This could be the case even if the two children involved are in a dating relationship and are both minors, or if a child sends an obscene picture of *him or herself*. The law changed in 2010 so that email, instant messages, text messages, or any other communication over the Internet or a wireless network is included. No matter what is sent or what is intended, children and families should be aware that a text or email creates a record and that the school or police may take these actions seriously.

Enforcement and Compliance

Program Quality Assurance Services (PQA)

Program Quality Assurance Services can help provide assistance and information about school programs and services. The PQA can also investigate complaints about a school or district. You may contact PQA if you have questions or if you feel that your child’s school is not following the bullying law in any way, including failing to investigate a complaint of bullying or failure to follow their own bullying policy.

Program Quality Assurance
Massachusetts Department of Elementary &
Secondary Education
75 Pleasant Street
Malden, MA 02148
Phone: 781-338-3700
www.doe.mass.edu/pqa

The U.S. Department of Education Office for Civil Rights

The Office for Civil Rights (OCR) enforces federal laws that prohibit discrimination on the basis of race, color, national origin, sex, or disability. If you feel that your child is the victim of harassment and discrimination at school based on one of those areas, and the school isn’t helping, you may file a complaint with OCR.

Office for Civil Rights, Boston Office
U.S. Department of Education
8th Floor
5 Post Office Square
Boston, MA 02109-3921
Phone: 617-289-0111
Fax 617-289-0150
www.ed.gov/ocr/complaintprocess.html
Email: OCR.Boston@ed.gov

For more information call:

Children’s Law Center of MA
298 Union Street
Lynn, MA 01901
781-581-1977 or 1-888-543-5298
781-598-9364 (fax)
www.clcm.org

Phone assistance is available during business hours.
Please call the main line and request to speak with an intake worker.

**The CLCM is supported in part by the
Massachusetts Legal Assistance Corp.,
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United Way
of Massachusetts Bay and Merrimack Valley**



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Bullying & Harassment Prevention Orders



**CHILDREN’S LAW CENTER
OF MASSACHUSETTS**



United Way
of Massachusetts Bay
and Merrimack Valley

Massachusetts' Anti-Bullying Law

Bullying [is] the repeated use by one or more students or a member of the school staff of a written, verbal or electronic expression or a physical act or gesture or any combination [of these acts]...directed at a victim that:

- causes physical or emotional harm to the victim or damage to the victim's property;
- places the victim in reasonable fear of harm to himself or the damage of his property;
- creates a hostile environment at school for the victim;
- infringes on the rights of the victim at school; or
- materially or substantially disrupts the education process or the orderly operation of a school.

For the purposes of this section, bullying shall include cyber-bullying. M.G.L. ch. 71 s. 37O(a). This law defines bullying very broadly and includes acts that happen out of school or on the internet if they create a hostile environment at school for the victim or infringe on the rights of the victim at school. The law does not make the act of bullying a crime, but it does require schools to take steps to prevent bullying in advance and deal with bullying when it happens.

Bullying Prevention and Intervention Plan

Every public, private, charter, or residential school must work with parents, students, teachers, local law enforcement, and community representatives to create a plan that addresses bullying prevention and intervention. The plan must include:

- definitions of bullying;
- procedures for anyone to report bullying, and how it can be done anonymously;
- procedures for how reports will be responded to and investigated;
- the range of disciplinary action that may be taken against a person who bullies;
- strategies to protect students from retaliation;
- procedures to notify the parents of both the victim and the child responsible for the bullying; and
- a strategy to provide counseling or referral for children who are bullying and victims.

The plan should also include professional development for school staff on preventing, identifying, and responding to bullying. The plan must be distributed to parents and school staff and it must be posted on the school's website. M.G.L. ch. 71 s. 37O.

Reporting and Investigating Bullying

The plan should name either the school principal or another person at school to be responsible for receiving reports of bullying. Anyone, including parents or students, may report bullying, and there must be a method in place for them to do so anonymously if they would like. Any school staff member who witnesses any instance of bullying or retaliation must report it to the principal or appropriate individual. When the principal or designated school official receives any report of bullying, he or she must investigate it promptly. The principal must then:

- notify local law enforcement if he or she believes that criminal charges may be pursued;
 - take appropriate disciplinary action;
 - notify the alleged bully's parents or guardians of the investigation; and
 - notify the victim's parents or guardians of the investigation and of the disciplinary action taken, to the extent allowed under state and federal privacy laws.
- M.G.L. ch. 71 s. 37O(g).

It is important to note that due to privacy laws, the school may not be able to tell you what disciplinary action was taken against a child who bullied your child.

Special Education Students

If a special education student's disability affects her social skills or makes the child vulnerable, as a victim or aggressor, to bullying, harassment, or teasing, the child's Individualized Education Program (IEP) shall address the skills and proficiencies needed to avoid and respond to bullying, harassment or teasing. M.G.L. ch. 71B s. 3. If your child has an IEP and she has been bullied, or you are concerned she may be bullied in the future, you may ask for a team meeting to modify her IEP to address bullying issues.

Harassment Prevention Orders

What is a Harassment Prevention Order?

Harassment Prevention Orders were created by law in 2010 (M.G.L. 258E), and they are similar to Restraining Orders because they can prevent one person from going near another person, his home, or his workplace. The purpose of a Harassment Prevention Order is to protect the person getting the order from future harassment. The big difference between a Harassment Prevention Order and a Restraining Order is that you don't need to be related to, have lived with, or had a dating relationship with the other person to get a Harassment Prevention Order.

What are the requirements for a Harassment Prevention Order?

You can get a harassment prevention order against someone who has:

- committed three or more acts of a bullying nature aimed at you;
- intended to cause fear, intimidation, abuse, or damage to property; and
- actually caused one of those results.

The prevention order can also be issued against someone who forced you to engage in sexual relations or has committed certain specific crimes against you.

How do I get a Harassment Prevention Order?

District, Boston Municipal, Superior, or Juvenile Courts can all issue Harassment Prevention Orders, and you should go to one of these courts in your community. The Probate and Family Court cannot issue a Harassment Prevention Order. If both the person asking for the order and the person the order is against are under 17, you must go to the Juvenile Court. Since a Harassment Prevention Order is civil, and not criminal, neither side is entitled to an attorney, although you may hire one. If you can show the court that there is a substantial likelihood of immediate danger of harassment, the judge may hear you without notifying the person the order is against. In that case, the court may issue a temporary 10 day order. The court will then schedule a hearing at the end of 10 days, and the other person will be informed and given an opportunity to present her side to the judge at the hearing. At the end of that hearing, the judge will make a decision on whether to issue an order for a longer period of time. Harassment Prevention Orders are typically in effect for one year.

What Happens once I have the Order?

Even though the order is civil, any violation of a Harassment Prevention Order, such as going too close to the person, is criminal and may carry criminal punishments. It is also possible for people to get cross orders against each other. This means that if your child has gotten into multiple fights with another child and she gets a Harassment Prevention Order against the other child, that child may be allowed to get a Harassment Prevention Order against your child. Also, if the children are in school together, it is possible that the school could change class schedules or move one or both of the children. If your child has an IEP and is the subject of a Harassment Prevention Order, the school must still consult with you and get your consent if there are any changes in services or placement.