

Connecticut Law and Cyber Bullying: More Is Needed

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A newly released report by the [Centers for Disease Control and Prevention \(CDC\)](#), [Electronic Media and Youth Violence: A CDC Issue Brief For Educators and Caregiver](#) (hereinafter, “*CDC Issue Brief*”), discusses “electronic aggression,” defined as any kind of harassment or bullying (including “teasing, telling lies, making fun of someone, making rude or mean comments, spreading rumors, or making threatening or aggressive comments”) that occurs through email, instant messaging, text messaging, chat rooms, websites, or blogs. While verbal bullying is the most common form of bullying experienced by young people, followed by physical bullying, electronic aggression is becoming more common.² Not a lot is known about electronic aggression, because the few studies done to date analyze “similar but not exactly the same behaviors,” leading researchers to describe their findings in terms of broad ranges, for example, that “9% to 35% of young people say they have been the victim of electronic aggression.”³ Other key findings include:

- the type of electronic aggression most frequently experienced by victims was rude or nasty comments (32%), followed by rumor spreading (13%), and threatening or aggressive comments (14%);⁴
- whether rates of perpetration and victimization differ for boys and girls is unknown, although some research indicates that girls perpetrate electronic aggression more frequently than do boys;⁵
- some studies indicate that electronic aggression may peak around the end of middle school or beginning of high school;⁶
- 7% to 14% of youth surveyed reported being a victim as well as a perpetrator of electronic aggression;⁷
- In 2005, 6% of internet users reported being the victim of on-line harassment, up 50% from 2000;⁸

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² *CDC Issue Brief* at 6.

³ *Id.* at 4-5 (citations omitted).

⁴ *Id.* at 5 (citations omitted).

⁵ *Id.* at 6 (citations omitted).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

- unlike the bullying that occurs in schools, victims of electronic aggression often do not know the perpetrator (13% to 46% of young people reported not knowing the identity of the cyber bully);⁹
- the most common means of electronic aggression appears to be instant messaging;¹⁰
- victims of internet harassment are much more likely than non-victims to abuse alcohol or drugs, receive detentions or suspensions in school, skip school, or suffer in-person victimization;¹¹
- parents or other caregivers who know that their adolescent has been a victim of electronic aggression also experience distress, often reporting that they are even more fearful, angry and/or frustrated about the incidents than are the young victims;¹²
- as with other forms of aggression, perpetrators of electronic aggression are more likely to believe that bullying is acceptable behavior, and more likely to also engage in face-to-face aggression;¹³
- research suggests that victims of electronic aggression may be the same kids who are victims of face-to-face aggression at school, but that electronic aggression is not simply an extension of school-yard bullying;¹⁴ and
- the “vast majority of electronic aggression appears to be experienced and perpetrated away from school grounds,” but carries real and serious consequences for children at school, including higher incidences of in-school discipline, truancy, emotional distress, and feeling unsafe at school.¹⁵

Connecticut law, specifically General Statutes § 10-222d, requires local and regional boards of education to develop and implement policies to address bullying in schools.¹⁶ As used

⁹ *Id.* at 7 (citations omitted).

¹⁰ *Id.*

¹¹ *Id.* at 8 (citations omitted).

¹² *Id.* at 9 (citations omitted).

¹³ *Id.*

¹⁴ *Id.* at 10.

¹⁵ *Id.*

¹⁶ Conn. General Statutes § 10-222d provides:

Each local and regional board of education shall develop and implement a policy to address the existence of bullying in its schools. Such policy shall: (1) Enable students to anonymously report acts of bullying to teachers and school administrators and require students to be notified annually of the process by which they may make such reports, (2) enable the parents or guardians of students to file written reports of suspected bullying, (3) require teachers and other school staff who witness acts of bullying or receive student reports of bullying to notify school administrators in writing, (4) require school administrators to investigate any written reports made under this section and to review

in this section, “bullying” means:

any overt acts by a student or a group of students directed against another student with the intent to ridicule, harass, humiliate or intimidate the other student while on school grounds, at a school-sponsored activity or on a school bus, which acts are committed more than once against any student during the school year. Such policies may include provisions addressing bullying outside of the school setting if it has a direct and negative impact on a student's academic performance or safety in school.¹⁷

This broad definition would cover electronic aggression. Even though most electronic aggression occurs outside of school, the definition encompasses electronic bullying to the extent it “has a direct and negative impact on a student's academic performance or safety in school.” Under this statute, bullying policies must enable students to anonymously report acts of bullying to teachers and administrators; enable the parents or guardians to file written reports of suspected bullying; require teachers or other staff who witness receive reports of acts of bullying to notify school administrators in writing; require administrators to investigate any written reports of bullying; develop prevention and intervention strategies for bullying; require schools to notify parents or guardians of perpetrators and victims of verified acts of bullying; require schools to keep lists of the number of verified acts of bullying in the schools; and develop case-by-case interventions to address repeated incidents of bullying by or against individual students.¹⁸

any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report, (5) include a prevention and intervention strategy, as defined by public act 08-160, for school staff to deal with bullying, (6) provide for the inclusion of language in student codes of conduct concerning bullying, (7) require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed, and invite them to attend at least one meeting, (8) require each school to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and, within available appropriations, report such number to the Department of Education, annually and in such manner as prescribed by the Commissioner of Education, (9) direct the development of case-by-case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline, and (10) identify the appropriate school personnel, which may include, but shall not be limited to, pupil services personnel, responsible for taking a bullying report and investigating the complaint. The notification required pursuant to subdivision (7) of this section shall include a description of the response of school staff to such acts and any consequences that may result from the commission of further acts of bullying. For purposes of this section, “bullying” means any overt acts by a student or a group of students directed against another student with the intent to ridicule, harass, humiliate or intimidate the other student while on school grounds, at a school-sponsored activity or on a school bus, which acts are committed more than once against any student during the school year. Such policies may include provisions addressing bullying outside of the school setting if it has a direct and negative impact on a student's academic performance or safety in school. Not later than February 1, 2009, each local and regional board of education shall submit the policy developed pursuant to this section to the Department of Education. Not later than July 1, 2009, each local or regional board of education shall ensure that the policy is included in the school district's publication of the rules, procedures and standards of conduct for schools and in all student handbooks.

¹⁷ *Id.*

¹⁸ *Id.*

This statute, however, is not without its critics. Its definition of bullying has been described as “vague and far from comprehensive.”¹⁹ The statute’s efficacy was called into question by a Superior Court judge in *Santoro v. Hamden*,²⁰ in which the court held that the statute did not create a private right of action or a means to circumvent governmental immunity. While enacted in order to protect bullying victims from harassment and make schools safe, critics charge it has “failed to protect children and failed to meaningfully address prevention strategies.”²¹ As one commentator has noted, the “constantly changing technologies of the internet age” raise new challenges to a healthy school environment:

A new generation of “cyberbullies” are now anonymously manipulating the psyche and emotional stability of victims via text message, instant message, and cruel and hateful customized websites. “Cyberbullying is the epitome of covert aggression; it is anonymous, destructive, and now, instantaneous.” Although internet harassment, for the most part, originates outside the school, it functions as the electronic bathroom wall, insidiously disrupting the school environment. Cyberbullying creates a tension between the First Amendment protection of student speech and the duty of school administrators to prevent the impact of abusive, harassing, threatening or other potentially harmful expression unleashed on the school community.²²

While the statutory definition of bullying is arguably broad enough to encompass electronic aggression, the statute should be amended to remove any ambiguity or doubt.

We are not aware of any reported cases in Connecticut dealing with any form of electronic aggression. Most cases in which plaintiffs have sought to hold school boards or administrators accountable for failing to provide a safe school environment have been unsuccessful, although victims of assault or acts of overt bullying have succeeded in holding perpetrators accountable for their actions.²³ Under Connecticut law, parents of unemancipated minors are jointly and severally liable with their children (up to \$5,000) for wilful or malicious injury caused to others.²⁴ Depending on the facts of the case, potential claims may include libel,

¹⁹ Bloom, “School Bullying in Connecticut: Can the Statehouse and the Courthouse Fix the Schoolhouse? An Analysis of Connecticut’s Anti-Bullying Statute,” 7 Conn. Pub. Int. L.J. 105, 108 (2007) .

²⁰ 2006 WL 2536595, at *1 (Conn. Super. Aug. 18, 2006).

²¹ Bloom, *supra*, 7 Conn. Pub. Int. L.J. at 114.

²² *Id.* at 112.

²³ See, e.g., *Antalik v. Thomaston Board of Ed.*, 46 Conn. L. Rptr. 179, 2008 WL 4150132 (Aug. 13, 2008) (court disallowed claim by plaintiff who allegedly was bullied and kicked by another student during recess); *Albert v. Kelly*, 2005 WL 2435898, at *1-2 (Conn. Super. Sept. 12, 2005) (judgment awarded against bully and his parents for damages resulting from plaintiff’s injuries in a high school locker room assault.); *Gasper v. Sniffin*, 2003 WL 21152855, at *1 (Conn. Super. May 6, 2003) (high school student doused with water, locked in metal school locker and threatened with electrocution stated valid claims for intentional infliction of emotional distress and false imprisonment).

²⁴ See Conn. Gen. Stat. § 52-572, which provides:

defamation of character, invasion of privacy, or intentional infliction of emotional distress. Criminal charges may also be possible, including prosecution under the federal Computer Fraud and Abuse Act of 1984, 18 U.S.C. § 1030. There is also a [bill](#) in Congress to amend the US Code to prohibit cyberbullying.

Electronic aggression is a growing problem. While Connecticut's anti-bullying statute, in our view, encompasses online aggression, Connecticut should do more to prohibit—and prevent—cyber bullying.

(a) The parent or parents or guardian . . . of any unemancipated minor or minors, which minor or minors wilfully or maliciously cause damage to any property or injury to any person, or, having taken a motor vehicle without the permission of the owner thereof, cause damage to the motor vehicle, shall be jointly and severally liable with the minor or minors for the damage or injury to an amount not exceeding five thousand dollars, if the minor or minors would have been liable for the damage or injury if they had been adults.

(b) This section shall not be construed to relieve the minor or minors from personal liability for the damage or injury.

(c) The liability provided for in this section shall be in addition to and not in lieu of any other liability which may exist at law.

(d) As used in this section, “damage” shall include depriving the owner of his property or motor vehicle or of the use, possession or enjoyment thereof.