

October Newsletter

October 2010

Law Offices of Attorney Paul O'Donnell
156 Van Norden Rd
Reading, Massachusetts 01867



You have been selected as a preferred client. Preferred clients will receive a regular brief newsletter reviewing Massachusetts legal developments. Additionally, preferred clients receive a ten percent discount on all future legal services performed by the firm.

NEW MASSACHUSETTS BULLYING LAW

The new Massachusetts anti-bullying law Chapter 92 of the Acts of 2010 signed by the legislature on May 3, 2010 attempts to define bullying including cyber bullying and emulates the options a public school principal maintains in handling a predicament.

MGL Chapter 71B section 10 defines bullying as "the repeated use by one or more students of a written, verbal or electronic expression or a physical act or gesture or any combination thereof, directed at a victim that (i) 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 of damage to his property; (iii) creates a horrible environment at school for the victim (iv) infringes on the rights of the victim at school; (v) or materially and substantially disrupts the education process or the orderly operation of a school.

The tragic deaths occurring in Springfield and South Hadley, MA appropriately triggered reactive legislature enactment of the law.

Additionally, cyberbullying is newly defined as "bullying through the use of technology or any electronic communication which shall include but shall not be limited to any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted in whole or

In This Issue New Bullying Law Information

Attorney Paul O'Donnell regularly writes and works with Massachusetts public school systems on student, administrator and teacher issues.

in part by a wire, radio, electromagnetic, photo, electronic or photo optional system including but not limited to, electronic mail, internet communications, instant messages or facsimile communications."

The cyber bullying section enlarges the power of the school principal to intervene in incidents between students 24 hours a day seven days a week. For example, involving bullying by texting. A review of the cyber bullying component of the law depicts that a principal shall prohibit bullying "through the use of technology or an electronic device that is not, owned, leased or used by a school district or school if the bullying creates a hostile environment at school for the victim/infringes on the rights of the victim at school or materially and substantially disrupts the education process or the orderly operation of a school."

The school principal predominantly serves as both the judge and jury in determining the guilty party and analyzing her options for punishment. For example, she evaluates a bullying incident if it rises to the level of a hostile environment. The law enumerates a hostile environment as "the school environment to be permeated with intimidation, ridicule, or insult that is sufficiently severe or pervasive to alter the conditions of the student's education." The terms "sufficiently severe" and "pervasive" appear subjective, vague and overbroad. Ultimately the courts will determine the interpretation of these critical legal terms.

The law calls for annual training for both professional and para professional employees of the school system. Personnel must report incidents of bullying to the Principal. The Principal maintains tremendous leeway in handling a bullying allegation. A Principal's range of action to a bullying incident includes reporting the incident to local police, carrying out discipline within the school and notify the parents of the victim and outlining the preventative course of

discipline taken.

Bullying in a traditional sense involved a form of physical intimidation in school. It normally included at least temporary physical and/or verbal contact within the confines of the school. Cyber bullying often continues long after the school day terminates. The communication between the alleged perpetrator and victim often become two ways blurring the assessment of blame. In conclusion the law represents a first step in establishing parameters for resolution of the majority of bullying incidents. The level of training of public school personnel will vary according to the often restricted budgets of various Massachusetts public school systems.

Attorney Paul O'Donnell
North Reading, MA
www.podonnellaw.com
781-956-6182

Bullying in Massachusetts public
schools. Find out more
[@www.podonnellaw.com](http://www.podonnellaw.com)

About Our Law Firm

Law offices of Attorney Paul O'Donnell
156 Van Norden Rd
Reading, Massachusetts 01867
Law offices of Attorney Paul O'Donnell

Free Phone Consultation

Offer Expires: 11/15/2010