

Massachusetts Students: What To Do If You're Being Bullied

(Reviewed: October 2011)

Massachusetts has one of the strongest anti-bullying laws in the country.¹ It has strict requirements that schools must follow to protect you and your peers from bullying, even where the bullying includes only words, rather than physical violence. Many of these requirements apply to *all* schools, whether public, private, or charter.

If you are being bullied and your school is not protecting you, your school is not following the law.

Bullying includes nearly any repeated hostility towards you

Massachusetts defines bullying broadly to include any repeated written, verbal, electronic, or physical acts that cause you physical or emotional harm, damage your property, place you in a reasonable fear of harm, create a hostile school environment for you, substantially disrupt your education or the orderly operation of your school, or otherwise infringe on your rights at school.

Cyber-bullying includes bullying through the use of any technology, including by assuming your identity on the internet and bullying anonymously or by impersonating another person. It also includes mass communications like mass texts, or even posting something on the internet that is not directed towards you if it can be accessed by you, such as wall posts about you between two of your Facebook friends.

Your school must have a comprehensive anti-bullying policy

Every school, with the exception of some (but not all) private schools, must, by law, have in place an anti-bullying policy. It must be posted on the school's website, and you can also request it from school administrators. It must include:

- A prohibition on bullying, cyber-bullying and retaliation
- Clear procedures for you to follow to confidentially and anonymously report bullying
- The procedures the school will take to respond to and investigate reports of bullying
- The range of disciplinary actions that may be taken against a bully
- Clear procedures for restoring a sense of safety to the bullied student and assessing the bullied student's needs for protection, including protection from retaliation for reporting the bullying
- Procedures to notify parents or guardians of the victim and the bully
- Procedures for providing, when necessary or requested, counseling to bullies and victims

¹ Chapter 92 of the Acts of 2010, codified in large part at Mass. Gen. L. c. 71, § 37O. See <http://www.mass.gov/legis/laws/seslaw10/sl100092.htm>.

You should make yourself familiar with this policy. It is important to get a sense of what will happen when you or someone else reports bullying so that you can remain in control of the situation.

Your parents or guardians must be notified if the school learns that you have been bullied.

You should be aware that schools are required to report bullying to a target's parents or guardians. If you have been bullied on the basis of your actual or perceived sexual orientation, gender identity or gender expression, your parents will be told about the bullying and may be told about its basis. GLAD has been working with the Department of Elementary and Secondary Education (DESE) on this issue, and DESE has put in place both regulations on parental notification² and guidance to school districts about preventing youth who have been bullied from being outted against their will to their parents by their schools.³ Despite this guidance, how different schools will respond to an individual incident of bullying will vary, and closeted students should be clear with school officials if they do not want their parents or guardians told about their sexual orientation, gender identity, or gender expression. As an LGBT student, you have a privacy interest in how and with whom you share information about your identity,⁴ and school officials can and should respect your privacy even while fulfilling the parental notification requirements under the anti-bullying law.

Teachers and other school staff must receive training on how to handle bullying and are required by law to report bullying to the administration if they see it occur.

The anti-bullying law requires teachers and other staff to receive training about the best ways to prevent bullying and how to intervene to stop bullying. They will also learn about the causes of bullying, as well as the characteristics and incidence of cyber-bullying and other internet safety issues related to cyber-bullying.

School staff must also be instructed in research findings on bullying, including information about specific categories of students who have been shown to be particularly at risk for bullying. Since all reputable research shows that LGBT students are bullied at particularly high rates, teachers at your school should be learning about the high bullying risk LGBT students face. As a result, you should expect your teachers to be sensitive to LGBT bullying issues, and you should hold them to that standard.

Finally, school staff is required to report bullying if they see it. That means that if you are bullied in front of staff members at your school or on the bus, they have a legal obligation to report it. Your school principal or equivalent head of school then has a legal obligation to investigate the report and take disciplinary action.

² 603 C.M.R. 49.05, at <http://www.doe.mass.edu/lawsregs/603cmr49.html>.

³ Mass. Dep't of Elem. & Secondary Educ., *Guidance on Notifying Parents When a Student Has Been Bullied Based on Sexual Orientation or Gender Identity/Expression: Implementation of 603 CMR 49.05*, at <http://www.doe.mass.edu/bullying/PNguidance.html>

⁴ See, e.g., *Sterling v. Borough of Minersville*, 232 F.3d 190, 196 (3d Cir. 2000) ("It is difficult to imagine a more private matter than one's sexuality and a less likely probability that the government would have a legitimate interest in disclosure of sexual identity."); *C.N. v. Wolf*, 410 F. Supp. 2d 894, 903 (C.D. Cal. 2005) (student successfully alleged that school violated her reasonable expectation of privacy in information about her sexual orientation by disclosing to her mother).

Your school must teach students about bullying

Massachusetts law requires schools to teach students every year from kindergarten to twelfth grade about bullying prevention. This instruction should be part of your normal curriculum each year. Among other things, your school should be teaching you techniques to handle bullies appropriately, and they should be teaching you and your classmates about the differences among students that cause them to be bullied.

This document is intended to provide general information only and is not intended to provide legal advice as to anyone's specific situation. Moreover, the law is constantly changing and this publication is based upon the information that is known to us as of this printing. For guidance on your particular situation, you must consult a lawyer. You should not act independently on this information. The provision of this information is not meant to create an attorney-client relationship. Check our website, www.glad.org, for the latest information.

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