

## CYBERBULLYING

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Cyberbullying is bullying that takes place over digital devices including computers, cell phones, and tablets. The same rules that require a school to investigate and intervene to prevent in-person bullying also apply to cyberbullying. For more information on bullying, see ELC's toolkit, *What to Do When Your Child Is Bullied or Harassed: A Parent's Guide to Advocacy in Pennsylvania Public Schools*, available [here](#).

### WHAT IS CYBERBULLYING?

Cyberbullying can occur through texting or other messaging apps, social media like Snapchat, Instagram, TikTok, email, or gaming, and online forums where people can view, participate in, or share content. Cyberbullying includes sending, posting, or sharing negative, harmful, false, or mean content about someone else. It can include sharing personal information about someone, causing embarrassment or humiliation.<sup>1</sup> The percentages of individuals who have experienced cyberbullying at some point in their lifetimes have more than [doubled](#) (18% to 37%) from 2007-2019. Studies and surveys indicate that a [majority](#) of students of color have been subjected to racially discriminatory cyberbullying.<sup>2</sup> Research also indicates that youth identifying as LGBT and students with disabilities are also at higher risk of cyberbullying.<sup>3</sup>

### HOW IS CYBERBULLYING DIFFERENT FROM TRADITIONAL SCHOOL BULLYING?

Both traditional and cyberbullying stem from a power imbalance between perpetrators and victims. While similar, cyberbullying differs from traditional bullying in that the victim does not necessarily know the perpetrator's identity, the content can spread rapidly and be easily preserved, and the aggression is not limited to a place or time, making cyberbullying more inescapable.<sup>4</sup>

### ARE THERE DIFFERENT RULES FOR CYBERBULLYING?

No. Cyberbullying is bullying in a particular context (i.e., electronic or digital). Therefore, the same school rules and state laws apply to cyberbullying as to bullying in schools. If the school knows that a current student is being bullied or harassed by another student at school – including in virtual school sessions – or at any activity sponsored, supervised, or sanctioned by the school, the school has a legal duty to investigate and take action to keep the student safe. The school should also provide supports and interventions when bullying or harassment occurs outside of school (including through out-of-school social media) if it is substantially interfering with a student's education or causing a threatening environment.

## WHAT IS THE DEFINITION OF BULLYING?

In Pennsylvania, a child meets the legal definition of being bullied if **all** the following boxes can be checked:

- ✓ Another student or group of students did something or said something highly offensive;
- ✓ The other student did what they did on purpose (“intentional act”);
- ✓ The other student’s action(s) took place in school (including virtual school), on school property, at a bus stop, or at a school event;
- ✓ The other student’s actions are: severe, something that many students do to the victim or happens often to students in the school, and/or something that the student did repeatedly;
- ✓ The other student’s conduct is so significant that it makes a big difference in the victim’s education, creates a threatening environment for the victim, or keeps the school from running normally.<sup>5</sup>

## WHAT IS THE DIFFERENCE BETWEEN BULLYING AND HARASSMENT?

The key difference between bullying and harassment is WHY other students are targeting the student being bullied. If other students are targeting your child because they are a member of a “protected class,” then your child may be experiencing harassment. Sometimes the insults or language a student uses can signal that they are targeting your child because your child has traits of a protected class.

## WHO IS A MEMBER OF A “PROTECTED CLASS”?

Under federal and state law, schools have special obligations to stop the harassment of children who are being bullied and targeted because of their protected class status. This includes children who are targeted due to: race, disability, ancestry, national origin (including immigration status and limited English proficiency), religion, sex (which includes gender identity and expression as well as sexual orientation, and sexual harassment), or use of a support animal.<sup>6</sup> Some cities and school districts also provide legal protections on other bases as well. For example, the School District of Philadelphia specifically lists English language proficiency, socioeconomic status, and political beliefs as protected classes.<sup>7</sup>

## WHAT CAN I DO IF MY CHILD IS BEING CYBERBULLIED?

Follow the detailed advocacy suggestions in ELC’s [toolkit](#), **What to Do When Your Child Is Bullied or Harassed: A Parent’s Guide to Advocacy in Pennsylvania Public Schools**. The most important thing is to report any cyberbullying promptly and take good notes regarding cyberbullying incidents and communications with your school. You should print out or take pictures of electronic messages and keep notes for yourself that include: when the bullying takes place, which online platform or app is being used for bullying, details about what the other students say or do, names of the people targeting your child, and details about when and to whom you reported the bullying.

The best evidence of cyberbullying may be screenshots of the offensive comments and interactions. You should also set narrow limits on apps and social media to ensure you know all the people who have access to comment on your or your child’s account or platform.

You may also want to report abuse on the particular app or platform; you can look up the contact info here: <https://cyberbullying.org/report>.

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The Education Law Center-PA (ELC) is a nonprofit, legal advocacy organization with offices in Philadelphia and Pittsburgh, dedicated to ensuring that all children in Pennsylvania have access to a quality public education. Through legal representation, impact litigation, community engagement, and policy advocacy, ELC advances the rights of underserved children, including children living in poverty, children of color, children in the foster care and juvenile justice systems, children with disabilities, English learners, LGBTQ students, and children experiencing homelessness.

ELC's publications provide a general statement of the law. However, each situation is different. If questions remain about how the law applies to a particular situation, contact ELC's Helpline for information and advice – visit [www.elc-pa.org/contact](http://www.elc-pa.org/contact) or call 215-238-6970 (Eastern and Central PA) or 412-258-2120 (Western PA) – or contact another attorney of your choice.

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<sup>1</sup> See What Is Cyberbullying, available at [www.stopbullying.gov](http://www.stopbullying.gov)

<sup>2</sup> *Online racial discrimination: A growing problem for adolescents: Cyberbullying researchers are beginning to understand the race-related experiences of adolescents of color.* Psychological Science Agenda, Brendesha M. Tynes, PhD (December 2015) (collecting research).

<sup>3</sup> See *Cyberbullying: LGBT Youth*, available at <https://netsanity.net/cyberbullying-lgbt-youth/> (finding that 35% of youth who identify as LGBT have received threats online, 58% have had derogatory statements made to them, and 33% report sexual harassment online); *Ruderman White Paper on Social Media, Cyberbullying, and Mental Health: A Comparison of Adolescents With and Without Disabilities* Shai Fuxman, EdD, Education Development Center Shari Kessel Schneider, MSPH, Education Development Center Miriam Heyman, PhD, Ruderman Family Foundation (concluding that students with disabilities are twice as likely to be subject to cyberbullying), available at [https://rudermanfoundation.org/white\\_papers/ruderman-white-paper-reveals-students-with-disabilities-are-almost-twice-as-likely-to-be-victims-of-cyberbullying/](https://rudermanfoundation.org/white_papers/ruderman-white-paper-reveals-students-with-disabilities-are-almost-twice-as-likely-to-be-victims-of-cyberbullying/).

<sup>4</sup> Kowalski RM, Morgan CA, Limber SP. Traditional bullying as a potential warning sign of cyberbullying. *Sch Psychol Int.* 2012; 33:505-519; Ryan T, Kariuki M, Yilmaz H. A comparative analysis of cyberbullying perceptions of preservice educators: Canada and Turkey. *Turk Online J Educ Technol.* 2011; 10:1-12. <https://eric.ed.gov/?id=EJ945026>.

<sup>5</sup> 24 Pa. Stat. Ann. § 13-1303.1-A.

<sup>6</sup> See 43 Pa. Stat. Ann. § 955 (West); 42 U.S.C.A. § 2000d; 42 U.S.C.A. § 12182; 20 U.S.C.A. § 1681; *Davis Next Friend LaShonda D. v. Monroe Cty. Bd. of Educ.*, 526 U.S. 629 (1999).

<sup>7</sup> The School Dist. of Phila., No. 248, 2 (2018).