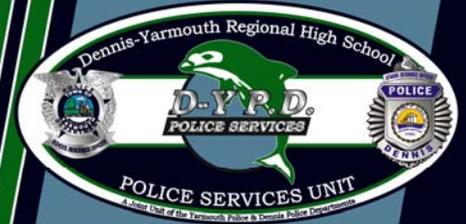




Dennis-Yarmouth Regional High School Police Services Unit

A Joint Unit of the Yarmouth Police & Dennis Police Departments



www.dypd.us

NOTICE: This is an archived item from the Dennis-Yarmouth Regional High School Police Services Unit website. Keep in mind that the law changes frequently with each legislative change and new court decisions handed down at both the state and federal level. Police procedures are modified to satisfy those changes. This article may be out of date with current practices.

Posted September, 2011

The New Bullying Law

In May of 2010 the Massachusetts legislature passed Senate Bill 2404, “**Act Relative to Bullying in Schools**” prohibiting bullying in schools.

Certainly the average person would be prone to believe that bullying is now a crime. This would be incorrect.

While there is plenty of “inside baseball” style detail below we like to approach these articles from an “end user” point of view. What do *you* need to know about the new law?

At D-Y High School nothing has really changed. The people at D-Y have been responding to bullying/harassment issues since the school opened in 1956. Certainly the techniques in handling these age-old problems have changed for the better since then. For example, School Resource Officers have assisted administrators with this and other issues since Steven Xiarhos was first assigned to the post in 1987. The school district has kept its policy on the issue up to date with the most recent major revision occurring in 2006.

If you as a student, or as the parent or guardian of a student, are having trouble with another student, whether the issue is bullying or not, please notify your assistant principal immediately. The AP is the first and most effective line of problem solving in these matters. If police involvement is required or simply beneficial to solving the problem the administrators will not hesitate to involve us. We are also available for direct consultation should you wish it.

The new law is really most helpful to, or has the most impact on, school districts that have no policy or practice in dealing with bullying. Again, this is not a new problem to us and we are practiced in dealing with it. If you need help all you have to do is call or stop by the office.

If you are interested in the nitty-gritty of what the legislature has done read on, and please keep in mind that our interpretation is strictly from the police point of view.

Senate Bill 2404 “prohibits” bullying in schools. Specifically the bill created Massachusetts General Laws (MGL) Chapter 71 § 37O and 603 Code of Massachusetts Regulation (CMR) 49.00 and modified certain existing criminal statutes.

The real meat of the statute, as mentioned before, establishes an infrastructure for school districts to create an anti-bullying plan and procedures to address bullying. The Dennis-Yarmouth Regional School District has a policy in place already that is nearly fully compliant with the new law. The D-Y District plan requires minor “tweaking” to be in full compliance and that process is underway as this article is posted. The anti-bullying policy for all school districts in the Commonwealth must be adopted by December, 2010.

The police role in this is really secondary. First, local law enforcement is to be consulted, as part of a community based committee, in establishing the District’s anti-bullying policy.

Neither Chapter 71 § 37O nor 603 CMR 49.00 establish a crime of “Bullying.” Nor do they recommend, mandate or otherwise require a specific response by law enforcement. In reality no new law was needed. Police will simply investigate bullying incidents as harassment or similar crimes. Police officers tasked with investigating bullying complaints must apply regular anti-harassment oriented laws.

- Criminal Harassment (MGL) Ch. 265 §43A
- Unlawful Telephone Calls (MGL Ch. 265 §14A)
- Stalking (MGL Ch. 265 §43)

These statutes were all amended with the passage of the bullying law to be more clearly inclusive of technology based harassment.

Both the statute and the CMR requires that the principal or person having a similar role, *“Notify the local law enforcement agency if the school principal or designee believes that criminal charges may be pursued against a perpetrator;”* The procedure for this notification was put in place before the 2010/2011 school year opened. The procedure mainly applies to schools where police officers are not regularly assigned. Since D-Y High School has had a school resource officer for over 23 years all notifications of criminal bullying incidents will continue to be referred to the SRO as they always have been.

As the end users parents and student should know that even when the notification is made to the local police by the school it is still incumbent on the parent/guardian or student to contact the police directly to access services. Police will not take action on misdemeanor harassment/bullying incidents based solely on a notification by the school. Any prosecution for misdemeanor crimes in the Commonwealth of Massachusetts requires the cooperation and participation of the victim, so direct police contact is necessary.

If the family of a victim of bullying wishes to request police services, that request must be through police headquarters unless a school resource officer is assigned to that school.

Parents/guardians and students who have been victims of bullying incidents also have the option to access court services, including filing criminal charges, without going through the police. You will find contact information for all divisions of the Trial Courts of the Commonwealth serving our area in our [Resources For Parents](#) section.

One of the services available through the Courts, created by the legislature separate from the anti-bullying law, is the Chapter 258E anti-harassment protective order. That order is available through the District or Juvenile Court Divisions of the Trial Court of the Commonwealth, or the police in instances of narrowly defined emergency on occasions when court is closed; such as weekends, weeknights and holidays. The 258E order can impose restrictions on a defendant similar to those in a 209A restraining order. The 258E does not have the family relationship restriction of the 209A order but it does have a narrow definition of 'harassment' that may not apply to all 'bullying' incidents.

If you have any questions about any of this give us a call.