
Harassment Log and Notice of Harassment Kit

By Documatica Legal Forms Inc.

How to Use These Forms:

This kit is a combination of forms that can be used to help resolve bullying incidences in elementary and high schools in the United States and Canada. When these forms are used properly, and with due consideration, they can alleviate serious harassment situations.

This kit consists of three parts:

- i) **Instructions, Commentary, and FAQ (this document)**
This form should be read in its entirety, as it contains valuable information on how to use parts ii) and iii) of this kit. It also answers some common questions you may have about this kit, and outlines the proper uses of each part.

- ii) **Harassment Log Templates**
This PDF document, which can be downloaded from <http://www.documatica-forms.com/bullying/> (requires a free PDF reader such as Adobe Acrobat Reader), contains two templates to aid in the recording of events associated with the bullying/harassment. The Harassment Event Log is a template for each actual bullying event that occurs. For each event that has occurred, and each time a new event occurs, print out this page and complete an entry *by hand*. Complete each entry as soon as possible after the event occurs, and make sure to attach any supplementary evidence, such as pictures or medical records. Store all the entries together in a binder or other file.

The Harassment Discussion Log is used to record discussions about the harassment. For each discussion that has occurred, and each time a new discussion occurs, print out this page and complete an entry *by hand*. The discussions may be with parents, teachers, the principal, police, or other parties. Again, fill out each log as soon as possible after the event to ensure greater accuracy.

- iii) **Notice of Harassment Form**
If the harassment is severe and has persisted even after you have attempted to resolve the situation, you may wish to try a more assertive approach. The Notice of Harassment Form is used to notify whomever you choose (i.e. Principal, Teacher, Parent(s)) that the harassment is occurring, and inform them that they may be vicariously liable in court if they knowingly allow the situation to worsen. To create a Notice of Harassment Form, visit <http://www.documatica-forms.com/bullying/>

You will be able to access an online form in which you enter your contact information, the recipient's contact information, and a summary of the harassment events. (If you have recorded the details in the Harassment Event Log, you can use this as a basis to make your Notice.) Please note that if there are several bullies, you will need to make a Notice for each bully (as different bullies may be involved in different events).

Using this information, we will automatically create a Notice of Harassment Form customized to your situation, in PDF format. To save the PDF to your computer, right-click on its image and choose "Save Target As...". You will then be able to choose a location on your hard drive where you want the document to be saved.

When you have printed out the PDF Notice of Harassment Form, sign it in front of a notary public. If a notary is unavailable, you may use a witness (ideally, one who is unrelated to you). Have the Notice hand-delivered by an independent third party, if possible. Alternately, send the Notice by registered mail. Use the Notice of Harassment Delivery Log, which is included at the end of your Notice of Harassment Form, to document the delivery person, date of delivery, and recipient's initials. (If you have a registered mail receipt, attach it to the Delivery Log).

What to do After Delivery:

Following delivery, each recipient of the Notice has 10 business days to respond to you at your correspondence address.

1) If a Response is Made:

If a response is made, arrange an appointment with the recipient(s) to discuss what actions they will be taking to remedy the harassment. If you are not satisfied with their response, continue to arrange discussions until both parties agree on a course of action. (Remember to document all discussions in the Harassment Discussion Log.) If, after lengthy discussions, the parties cannot agree, you should consider alerting the police or media of the situation.

2) If No Response is Made:

If no response is made, follow up in person to ensure the recipient(s) received and understood the letter. If there is still no response or cooperation, serve the Notice a second time. Document the delivery as for the first Notice. If no response is made to the second Notice, you should consider alerting the police or media of the situation.

Frequently Asked Questions:

i) What is Bullying? Does it HAVE to be physical?

Bullying is when one person abuses, harasses, coerces, harms, or threatens another person using verbal, written, physical, or electronic means. It may include injury, taunting, name-calling, put-downs, extortion, or other events. As such, Bullying may be physical OR non-physical in nature.

ii) What can my child do to stop bullies?

There are several things your child can do:

- as far as possible, discourage your child from fighting back and encourage him/her to ignore the bully as much as possible and walk away
- if your child is unable to walk away, he/she may be able to diffuse the situation with humor
- your child may wish to enlist friends for mutual protection and support, as a group is harder to pick on
- your child should make it clear to the bully that their behavior is unacceptable and unwelcome, and has serious consequences
- finally, encourage your child to tell an adult about the bullying

iii) What can I do to stop bullies?

As a parent/guardian, you can also help by:

- being available to talk with your child about the situation, and providing a supportive environment
- encouraging your child to see a counselor or other school official he/she trusts, if he/she is not comfortable talking to you
- discussing your concern about the incidences with your school officials such as principals and teachers
- documenting the incidences as much as possible
- delivering a Notice of Harassment Form to the parents or school, if the bullying is severe and you and your child's efforts have not been effective

iv) Can parents or teachers really be held liable for bullying, as the Notice says?

Although the answer depends your jurisdiction of residence, there have been instances where a bully's parents knowingly permitted bullying to

continue, and were liable for the tragic outcomes. Currently, 47 states have some form of “parental liability law”, and it is likely that more jurisdictions will enact similar laws in the future. There is some precedent for principals and teachers being considered to act “*in loco parentis*” (in place of parents) during school hours, so it is conceivable that, in these instances, they could assume similar liabilities. However, as explained further in the Legal Commentary below, the effect of this Notice is as much, if not more so, political (as opposed to legal).

v) What are the chances that this Notice will stop the bullying?

Because bullying is a result of the interaction of many factors, we cannot promise that this Notice will end the harassment. However, providing the principal, teacher, and parents with details of the exact nature of events that are occurring, along with an indication that they may be liable if they do not take action, will likely result in the bully being pressured (by several people) to stop the activity. Furthermore, the bully will become aware that the incidences could become a legal matter, and that any future problems he/she causes will be documented and reported. Taken together, this will probably decrease or stop the activity.

vi) Will there be any negative consequences to giving this Notice?

In cases where the bullying is persistent and severe, a family likely stands much more to gain by attempting to stop the bullying than they stand to lose by delivering this Notice. Furthermore, the cost of inaction in circumstances such as this could be far more troubling. Bullied children are at a higher risk for mental health problems, behavioral adjustment problems, anxiety, depression, and even suicide (Arseneault et al., *Pediatrics* 118: 130 -138; Kaltiala-Heino et al., *British Medical Journal* 319: 348 – 351).

Legal Commentary:

When these forms are used properly, and with due consideration, they can help alleviate many common bullying or harassment situations. However, for serious circumstances, we recommend that you contact your local police and/or an attorney within your jurisdiction.

The Notice of Harassment Form lists a number of criminal provisions and penalties. Typically, the time periods, penalties, and/or fines listed are the maximum allowable under Criminal Law. Unless there are extenuating circumstances (i.e. many repeated incidences and multiple warnings), it is very likely that if criminal charges are laid, the penalty will be well below the maximum.

The degree of vicarious liability that the bully's parents, the principal, or the teacher may be subject to has not been conclusively determined. Courts have been inconsistent in defining the limits of a parent's responsibility for their child's actions, and some jurisdictions have passed laws clarifying their position on this topic. Thus, the assignment of parental liability is highly dependent on your jurisdiction and the specific nature of the events that have occurred.

However, many bullying incidences occur during school hours, when the child is in the school's custody. With respect to principal and teacher liability, there are two legally important considerations. First, it is important to note that in today's society, the prospect of bullying at school is not an entirely unforeseeable event; it is to be expected. As a consequence of this, principals and teachers have some level of obligation to address bullying situations. Second, even though school officials recognize that bullying can happen, they can only address incidences that they are aware of. If the incidences are NOT brought to the principal or teacher's attention, it is likely that they will avoid liability. The purpose of the Notice of Harassment Form is to notify school officials of the bullying so that they cannot plead ignorance if the harassment continues or escalates further. The fact that the parents, principal, and teacher have been alerted to the situation may play a pivotal role in their innocence, or liability, in a court of law.

The purpose of this form is also (and perhaps even more so) political. Even if you are in a jurisdiction where a caretaker such as a principal or teacher cannot be found liable for actions in their classroom/school, the political effect of serving them with a Notice of Harassment may be enough to encourage them to remedy or rectify the situation. The political consequences of a principal or teacher not intervening when given notice of bullying incidences (if the harassment escalates) may be enough to justify a reprimand, demotion or termination. Even if a principal or teacher wishes to ignore the situation, a rational person will act in their own best interests to protect their income and position. Thus, the principal

or teacher will probably attempt to stop the bullying, as it will be safer and easier than facing the uncertainty of what could happen if they don't. As a result, in addition to the court of law, the Notice of Harassment Form will help to get the court of public opinion on your side.

It is an unfortunate sign of the times that there is a pressing need for resources such as this kit. The world in which our children live is vastly different from the one in which we grew up, and it is clear that extreme bullying is here to stay. Documatica recognizes the many tragedies that may occur when bullying is not addressed in time, and the severe lack of legal recourse available to victims. That is why we are offering this kit (the first of its kind) as a free public service, available to all.

This Notice of Harassment kit reflects Documatica's continuing commitment to providing the public with legal documents specifically geared towards today's world. Documatica also offers several other professional-quality legal kits/forms at competitive prices, for any other legal needs you may have. We encourage you to visit our website at <http://www.documatica-forms.com/>.

We sincerely hope that you will find this kit a useful resource,

Department of Legal Research, and
Department of Information Technology,
Documatica Legal Forms Inc.