



Macaroni Kid

Edmonton, AB

ARTICLE

Pink Shirt Day is Feb. 26: What Are Your Legal Rights When It Comes to Bullying?

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Image credit: Pixabay

Check out our interview with Jasmine Daya, who discusses what your rights are when it comes to Bullying.

1. How do you spot bullying or cyberbullying?

Although not always easy to detect, the best way to spot bullying or cyberbullying is to observe changes in behaviour and engage in ongoing communication with your children. Despite my three children sometimes rolling their eyes at my questions, I continue to ask them and to engage them in conversation. I want them to know that no matter what, I am there for them.

Putting aside obvious signs such as physical injuries that could result from bullying or self-inflicted wounds due to mental health issues that arise as a result of bullying, often times, parents and guardians should be on the lookout for more subtle signs. For example, faking illness or increased complaints of illness, increased anxiety, avoiding social situations, deteriorating grades, loss of interest, feelings of sadness or helplessness, acting more secretive or destructive behaviour could all be warning signs.

In my opinion, cyberbullying is far worse than traditional bullying because it's inescapable. Leaving an environment would often also leave the bullying behind. The same is not true with cyberbullying. Wherever the victim goes, they will continue to feel the repercussions of cyberbullying.

2. What are some legal options for victims of bullying or cyberbullying?

According to the RCMP, “Cyberbullying **involves the use of communication technologies** such as the Internet, social networking sites, websites, email, text messaging and instant messaging to repeatedly intimidate or harass others.” Bullying occurs “when there is an **imbalance of power**; where someone purposely and **repeatedly says or does hurtful things to someone else.**” (<http://www.rcmp-grc.gc.ca/cybp-cpcj/bull-inti/index-eng.htm>)

From a legal perspective, there are avenues that a victim of bullying or cyberbullying can pursue.

Bullying and cyberbullying could result in criminal charges. From a civil perspective, a victim is entitled to sue for pain and suffering, related out of pocket expenses, future cost of care and lost income either of the victim or of a parent who has had to take time off from work to care for the victim. A lawsuit should only be commenced in cases where there is a significant wrong and resulting damage to the individual. These are the stories that cause me to hold back tears. I have an 11-year-old client who is on suicide watch after repeated bullying and cyberbullying made her believe that there was no point in her continuing to live. The school knew what was transpiring and could have prevented it but chose to turn a blind eye. Although, suing the “bully” is a possibility, I prefer to look at the big picture and to determine if parents or the school enabled the wrongdoing to occur. A parent’s home insurer would often cover the claim and the school will also have an insurer to respond to the allegations against them.

Parents can also file a complaint with the Alberta Human Rights Commission if the bullying involves discrimination contrary to the Alberta Human Rights Act. The Commission recommends that parents first talk to the school principal and school board superintendent to determine if the matter can be resolved in this manner before pursuing a formal complaint.

3. What is the role of schools if it happens on its property (the playground or using WIFI)?

The *Education Act* in Alberta states that school boards are required to:

...ensure that each student enrolled in a school operated by the board and each staff member employed by the board is provided with a welcoming, caring, respectful and safe learning environment that respects diversity and fosters a sense of belonging,

If bullying occurs at school, the schools could be held responsible if they fail to adequately address the issue.

Furthermore, if cyberbullying occurs while on school property, using school devices or even using the school’s WIFI, the school could be held accountable. Most schools now have a technology policy however it is not enough for a school to simply have a policy in place, they must ensure enforcement of the policy. Schools undoubtedly have a balancing act between their role as educators and their role as caregivers but fostering a safe environment is key to achieving the best result of everyone involved. No child in Canada should ever go to school in fear. If that occurs then we as adults have failed and given that I continue to have people contact me to pursue claims for bullying and cyberbullying, I can confirm that at present, we are in fact failing.

About Jasmine Daya

Jasmine Daya is a lawyer and the Managing Principal of Jasmine Daya & Co. She is also a published author, blogger, podcaster and speaker.

Although Jasmine has files in all areas of personal injury, she focuses on claims involving minors, club assaults, particularly those involving bouncers or nightclub security, bullying and cyberbullying which is a developing area in the civil law context, elder abuse, personal injury claims arising from landlord negligence, fatality claims and catastrophic claims involving motor vehicle accidents. Jasmine also handles unique personal injury claims which enable her to think outside the box to serve her clients.

Jasmine graduated from Queen's University in 2005 with a Bachelor of Laws. While at Queen's, Jasmine was the recipient of the Reuben Wells Leonard prize in Business law and an active volunteer within the Queen's Law community. After completion of the Bar Admissions Course and exams, Jasmine commenced her articles in 2005 under Jack Fireman and was admitted to the Law Society of Upper Canada in 2006. While continuing to practice as a full-time lawyer, Jasmine studied at Osgoode Hall graduating in 2009 with a Master of Laws.





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