



## Cyberbullying: A Growing Social Phenomenon

### **Meaning of Electronic Aggression**

This term is starting to appear in the field of insurance to describe coverage and/or exclusions for the use of technology for the purpose of cyberharassment or cyberbullying. This term was coined by the Centers for Disease Control

### **Meaning of cyberbullying?**

"Cyberbullying" is a tactic used against children by use of technology to embarrass, threat, harass, humiliate or target them. This can take place on the Internet, using such forums as Facebook or YouTube or mobile phones. This term is used when it is an attacking minor against a target minor child. When an adult becomes involved in the attack, it is referred to as cyberstalking or cyberharassment.c

While bullying has been common problem for centuries, the use of technology has allowed the attacks to remain anonymous, at least for a time, and as a result, provide a forum for children that might not otherwise participate to do so. Some recent studies:

- Ipsos, Published 1-2012 found 12% parents (worldwide) say their child has experienced cyberbullying
- Consumer Reports 2011 (US) found 1,000,000 children were harassed, threatened or experienced cyberbullying on Facebook in the past year
- Cyberbullying Research Center found 20% of students experience cyberbullying

On-line social sites and instant messaging seem to be the most common delivery method. When schools try and get involved by disciplining the student for cyberbullying actions that took place off-campus and outside of school hours, they are often sued for exceeding their authority and violating the student's free speech right. They also, often lose.

The results of this type of harassment for the victim range from embarrassment, humiliation, stress, anger, and in some cases, suicide of the injured party.

That brings us to insurance:

Homeowner's or Personal Umbrella policies:

Currently, there is no standardized approach to this type of liability claim. However, last year, AAIS filed an exclusion that specifically removes coverage for "electronic aggression" in their Umbrella form. Electronic aggression is defined by AAIS as "including but not limited to harassment or bullying committed by means of an electronic forum, including but not limited to a blog, an electronic bulletin board, an electronic chat room, a gripe site, a social networking site, a website, or a weblog; or by other electronic means, including but not limited to email, instant messaging, or text messaging."

There is an exclusion that may apply in the standard ISO for expected or intended injury. The exclusion has been expanded in the past few years to remove coverage whether or not the resultant injury or damage was what was expected or intended by the insured.

ISO has also created an option endorsement to specifically provide coverage for this type of loss. Check with your insurance companies for availability. The endorsement would "generally provide personal injury coverage to an insured with respect to personal injury arising from specified offenses including oral or written publication, in any manner, of material that slanders or libels a person, disparages a person's goods, products or services, or violates a person's right of privacy," says ISO spokeswoman Katie McFadzean.

The lawsuit may include defamation, invasion of privacy, disclosure of privation information, intentional infliction of emotion distress. An additional allegation may be directed toward the parent: negligent supervision. While the intentional act may be excluded, negligent supervision may still be covered. One of the questions that this brings up, can a parent be held liable as well as insured for the actions of their children. The answer is, maybe. Various jurisdictions in the US have differed in their approach. Some courts have found that in the absence of a specific exclusion for negligent supervision in the policy, that act is independent of the intentional act language and have allowed coverage. Other courts have found that the

broadened intentional act exclusion applies to both the act and the causation of negligent supervision.

So, with more insurance companies paying attention to this growing area of risk, you need to discuss ways to mitigate, not only possible harm to the insured's own child, but the possible uncovered lawsuit if the insured's own child gets caught up in cyberbullying another.

Check for signs:

- Look for changes in behavior, such as nervousness or social withdrawal, suddenly hiding the computer screen or closing cell phone abruptly
- Trouble sleeping
- Drop in academic performance

Reduce the risks of cyberbullying:

- Put the computer in the public area of the house – not in the child's own room
- Check their social networking sites. They must "friend" the parents.
- Check their email and text messages
- Educate the child about cyberbullying; reassure them that telling the parents will not make the situation worse, but will be corrected immediately

This change in social behavior is not abating but is, in fact, getting worse. The child may object that the parent is "invading their privacy". It is important that the parent stand firm that it is their job to protect them until grown.