**ALL BULLYING**

**INSTRUCTIONS**

**WARNING!** These instructions are not a substitute for the advice of an attorney.

**This All Bullying Set Contains** instructions and six forms: A Cease and Desist Letter, a Verified Petition and Application for Injunctive Relief, a Temporary Restraining Order, a Motion to Extend Temporary Restraining Order, an Order to Extend Temporary Restraining Order, and Temporary Injunction Order. The chart below describes each form and when to use it.

**Need Help?**

It is always best to hire a lawyer, and these forms are not a substitute for the advice of an attorney. To get a referral to a lawyer or, if you cannot afford an attorney, to a free Legal Aid program, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690.

**Contents of All Bullying Set**

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| **Name of Form** | **What It Is and How to Use It** |
| **Cease and Desist Letter** | This letter tells the bully and/or bully’s guardian(s) that you will take legal action if the bullying does not stop. |
| **Verified Petition and Application for Injunctive Relief** | This form must be filed at the courthouse to start your case. It tells the court and the bully and/or bully’s guardian(s) that you want the Court to order injunctive relief. It is sometimes called the “Petition” or “Application.” |
| **Temporary Restraining Order (TRO)** | A temporary restraining order is a court order that tells a person not to do certain things or that they are required to do certain things. It is often called a “TRO.” You will fill out this form and take it with you for the judge to sign at the **first** hearing. The TRO will expire after 14 days unless extended. |
| **Motion to Extend TRO** | Fill out and file this form if the second hearing (the temporary injunction hearing) cannot be set within 14 days of the date of the TRO. |
| **Order to Extend TRO** | You should fill out this form and take it with you for the judge to sign if there is a hearing on your Motion to Extend TRO. |
| **Temporary Injunction** | A temporary injunction is a court order that tells a person not to do certain things or to do certain things until the court case is over. You will fill out this form and take it with you for the judge to sign at the **second** hearing (or third hearing if a Motion to Extend TRO was filed). |

**How to Use this Set:**

**Step 1: Read These General Instructions**

* Use blue ink to complete the forms. Pencil and other color ink will not scan clearly.
* You must fill out all the spaces on the forms unless instructed otherwise. The judge and court personnel will not fill them out for you. The judge may require you to correct errors that you may make or may deny the injunctive relief requested if the information is inaccurate or incomplete.
* Make copies of each form you complete. Keep one copy. The other copies are for the person(s) you are filing the case against.
* Under Texas law, a minor’s name is considered “sensitive data” and must be redacted by using an “X” in place of each letter of the minor child’s name or by removing the minor’s name in a manner indicating that the data has been redacted. When you file a document containing redacted data, you must retain an unredacted version of the document while the case is open. If a document must contain sensitive data, you must notify the clerk by including, on the upper left-hand side of the first page, the phrase, “NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA.” Refer to Rule 21c of the Texas Rules of Civil Procedure for more information.
* If you toggle on and off the “¶” function in Word certain comments about the documents will appear in the forms.

**Step 2: Fill out the Verified Petition and Application for Injunctive Relief and the TRO**

* Fill out the Verified Petition and Application for Injunctive Relief and the TRO. You are the Petitioner. The bully and/or bully’s guardian(s) are the Respondents (also called Defendants).
* Remember to redact the names of minors and include the required notice regarding sensitive data.
* If you cannot afford to pay the court costs for your case, fill out a Statement of Inability to Afford Court Costs or an Appeal Bond. This form can be found on the Texas Supreme Court’s website at <https://www.txcourts.gov/rules-forms/forms/>.
* Make enough copies of the completed Verified Petition and Application for Injunctive Relief, the TRO and, if you are using it, the Statement of Inability to Afford Court Costs or an Appeal Bond so that you and each of the Respondents will have a copy.
* Call the court clerk and ask if there are any local standing orders or local rules you need to know about your case.
* Ask the clerk when and where you can present your temporary restraining order to a judge.

**Step 3: File (turn in) your** **Verified Petition and Application for Injunctive Relief, and if applicable, your Statement of Inability to Afford Court Costs or an Appeal**

* Take the original and copies of your Verified Petition and Application for Injunctive Relief, and if applicable, your Statement of Inability to Afford Court Costs or an Appeal, to the courthouse and file them (turn them in) with the District or County Clerk.
* Bring two copies of the TRO with you but do not yet file them with the clerk.
* Ask the clerk:
  + For a Civil Case Information Sheet. Fill it out and file it with your Verified Petition and Application for Injunctive Relief
  + To “file-stamp” your copies. The clerk will stamp your papers with the date and time you turned them in. The clerk will keep the original and give you back your file-stamped copies.
  + If you are not filing a Statement of Inability to Afford Court Costs or an Appeal, you will need to pay a filing fee. The fees vary by county but typically range up to $400.

**Step 4: Present your Verified Petition and Application for Injunctive Relief to the Court**

Your Verified Petition and Application for Injunctive Relief requests three types of injunctive relief. The first is a temporary restraining order (TRO), the second is a temporary injunction, and the third is a permanent injunction. For this fourth step, you need to present your request for a TRO to the court.

* After filing your Verified Petition and Application for Injunctive Relief, and if applicable, your Statement of Inability to Afford Court Costs or an Appeal, present your TRO to a judge. (By calling the clerk’s office ahead of time in Step 2, you should already know when and where to present your TRO).
* Hand the judge your completed Verified Petition and Application for Injunctive Relief, TRO, and if applicable, your Statement of Inability to Afford Court Costs or an Appeal.
* The judge will review your paperwork and may ask you additional questions. Then the judge will either deny your TRO or will grant your TRO. If the judge grants your TRO, he or she should fill in the incomplete sections, sign it, and set your next hearing (the temporary injunction hearing) within 14 days. If the court is unable to set the second hearing within 14 days, you can:
  + File a Motion to Extend the TRO, and
  + Have the Order to Extend TRO granted within the 14 days.

Otherwise, the TRO will expire after 14 days, and the protections will be lost. The court is allowed to grant one 14-day extension. After that, any extensions must be agreed to by the Respondent(s). If the TRO is not extended or converted into a temporary injunction within 14 days, the TRO will expire at midnight on the 14th calendar day after the TRO was signed, or the date of the second hearing—whichever is earlier.

**Step 5: Serve the Respondent(s) with the TRO**

* Either the judge will send your TRO and order setting hearing to the clerk, or you will take it to the clerk’s office to be filed. Once filed, and upon your request and payment of the fees, the clerk is responsible for issuing a “writ” and serving all the documents on the Respondent(s).
* The writ will list out who the parties to the case are, describe what happened at court, command the Respondent(s) to refrain from doing any acts listed in the TRO, and command the Respondent(s) to take any actions compelled in the TRO. It will also tell the Respondent(s) the day and time for the second hearing on the temporary injunction.
* The TRO is not effective until the Respondent(s) receive(s) actual notice by personal service or otherwise.
* The Petition, TRO, and writ must be served on the Respondent(s) immediately and no later than three days before the second hearing, unless the court shortens this time period. You should serve the Respondent(s) by:
  + **Official Service of Process.** Tell the clerk if you want a constable, sheriff, or private process server to handle service of process or if you want the clerk to handle it by certified mail, return receipt requested.
    - If a constable, sheriff or private process server handles it, they will complete a Return of Service form stating where and when the Respondent(s) were served. This form is proof to the Court that you gave the Respondent(s) legal notice. They may file the Return of Service at the courthouse or give it to you. If they give it to you, make a copy and file the original.
    - If the clerk handles it, the return receipt (or, “green card”) is proof to the Court that you gave the Respondent(s) legal notice. The return receipt must be signed by the Respondent(s), so only use this option if you know that the Respondent is the only person who will sign for the letter when the mail carrier delivers it.

**Step 6: Prepare for the Temporary Injunction Hearing**

* At the temporary injunction hearing, you must be able to prove that the alleged bully was cyberbullying the targeted child. Your proof (also called “evidence”) can come in the form of in-person witness testimony, documents, photographs, and videos. The affidavit(s) attached to your Verified Petition and Application for Injunctive Relief do not count as evidence unless the Respondents do not object to the affidavit(s). Therefore, it is recommended that you plan to present other documents and witness testimony at the hearing.
* Fill out and print the temporary injunction form. Make two copies of the temporary injunction and any written evidence you plan to use.

**Step 7: Attend the Temporary Injunction Hearing**

* At the hearing, the judge will decide whether to grant the request for temporary injunction. If it is granted, your TRO will change into a temporary injunction and will remain in effect until your court case is over and you obtain a permanent injunction.
* If you (Petitioner) do not attend the hearing, the TRO will be dissolved (meaning it will no longer be in effect) and your injunction will be denied. It is very important that you attend your second hearing.
* Bring these papers with you to the courthouse on the day of your second hearing:
  + A file-stamped copy of your Verified Petition and Application for Injunctive Relief, including affidavits
  + A file-stamped copy of the Return of Service showing that the Respondent(s) have been properly served
  + The filled out temporary injunction.
* When you go to the courthouse, stop by the clerk’s office. Ask if you need the court file, a docket sheet (list of what has been filed), or anything else from their office to bring with you to the courtroom.
* The judge will listen to what you say (and the Respondent(s) if they come to court) and will make an order. If the judge grants your temporary injunction, he or she should fill in the incomplete sections and sign it.

**Step 8: File the Signed Temporary Injunction with the Clerk**

* After the judge signs your temporary injunction, go back to the clerk’s office. File (turn in) the temporary injunction signed by the judge.
* Get a certified copy of the temporary injunction signed by the judge from the clerk while you are there. This way, you can show it to anyone who needs to know the terms of the temporary injunction such as a school or the police. The clerk may charge a fee for the certified copies.

**Step 9: Serve the Respondent(s) with the Temporary Injunction**

* Similar to Step 5, if your temporary injunction is granted, then upon request and payment of the fees, the clerk is responsible for issuing a writ and serving the Respondent(s) with the temporary Injunction. The writ will say who the parties are, describe what happened at court, command the Respondent(s) to refrain from the acts listed in the temporary injunction, and command the Respondent(s) to take the actions compelled in the temporary injunction.
* The writ must be served by the sheriff or constable in the county of the Respondent(s)’ residence, or by another person authorized by the court.

**Step 10: What to do next**

* The orders you have received up to this point are only temporary. The temporary injunction will remain in effect until the judge signs a final order at the time of trial.
* To prepare for trial, you should consider obtaining a lawyer. To get a referral to a lawyer or, if you are poor, to a free Legal Aid program, call the State Bar of Texas Lawyer Referral Information Service at 1-800-252-9690.