

**No Contact Orders and Protective Orders Affecting Students,
and
No Trespassing Letters and Injunctions Affecting Adults**

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I. Introduction

Two teenagers are tangled up in a fight that results in assault charges in the juvenile court against one teenager relating to harm caused to the other teen. While those charges are pending, the Court issues a No-Contact Order keeping the alleged assailant away from the alleged victim.

A boy becomes infatuated with a girl. She is not interested, but he can't take "no" for an answer, and he just can't leave her alone. The girl's family obtains a Protective Order keeping him away from their daughter.

A parent alerts the school that she and her children, your students, have a Protective Order that prevents the other parent from seeing the children or contacting them.

An angry parent has a disagreement with a teacher. The parent frequently calls, sends emails, and comes to the school in an effort to confront the teacher. The parent claims the school is a public place and they have a right to be there anytime they want.

What can and should the School District do when one of its students has to stay away from another student? What can and should the School District do when an adult engages in conduct that is disruptive or may create a hostile situation for an employee?

¹ With thanks and attribution to Matt Carver, Legal Services Director at SAI, for use of his Article "Following Orders and Educating Students."

II. No Contact Orders

A. Iowa Code Section 664A.1

A “No-contact order” is “a court order issued in a criminal proceeding requiring the defendant to have no contact with the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, and to refrain from harassing the alleged victim, persons residing with the alleged victim, or members of the alleged victim's family.”

A “Protective order” is a court order issued:

- pursuant to chapter 232 (relating to Juvenile Justice),
- a court order or court-approved consent agreement entered pursuant to chapter 236 (relating to Domestic Abuse),
- a temporary or permanent protective order or order to vacate the homestead under chapter 598 (relating to Dissolution of Marriage and Domestic Relations), or
- an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault,
- a civil injunction issued pursuant to section 915.22 (relating to civil injunction to restrain harassment or intimidation of victims or witnesses).

B. Injunctions and Restraining Orders.

The phrase “restraining order” is often used synonymously with “protective order.” However, the phrase is also used to describe a kind of injunction or order issued by the court in a civil case between two parties when a plaintiff demonstrates to the court that he or she is entitled to a permanent or temporary court order restraining the commission or continuance of some act which would greatly or irreparably injure the plaintiff. Iowa Rule of Civil Procedure 1.1502.

C. Sample No Contact Order:

Now, on this 4th day of December, 2013, the Court hereby Orders T.K as follows:

You are to stay at least 50 feet away from (Victim). You are not to disclose the victim's name. The clerk is to seal the victim's name from disclosure. You are to have no contact with (Victim).

You shall not communicate in person, by telephone, by text, social media or in writing. You are ordered to stay away from (Victim). You are not to disclose the victim's name, home, and the area surrounding it wherever (Victim) lives during this order.

You are ordered to stay at least 500 feet away from (Victim)'s school and/or daycare and the areas surrounding them whenever (Victim) goes to daycare or school during this order.

You are also ordered to stay away from any other place (Victim) happens to be during the term of this order. If you are in the same place accidentally, you must immediately leave the area. If you are in the same place intentionally, you are in violation of this order.

If you violate this order, any police officer is authorized to arrest you and take you, as soon as is practical, to a Judge. If you have violated this order, you can be found in Contempt of Court and sentenced up to 24 hours to 7 days in detention, months in jail, fined up to \$NA or both.

THIS ORDER IS IN EFFECT UNTIL IT IS CANCELLED BY A JUDGE OR UNTIL THE CASE IS CLOSED.

ONLY A JUDGE CAN CANCEL THIS ORDER. ANY CONTACT WITH THE PERSON LISTED ABOVE IS A VIOLATION OF THIS ORDER- EVEN IF THAT PERSON AGREES TO HAVE CONTACT.

SO ORDERED this 4th day of December, 2013

D. Excerpt from modified No Contact order:

“The Order is modified as follows: The Juvenile Delinquent, T.K., is allowed to ride the school bus to and from school but must be seated at all times in the seat

behind the bus driver. If the Juvenile's brother rides the bus, the brother must sit with the Juvenile T.K."

III. "Domestic Abuse" Protective Orders under Iowa Code Chapter 236

A. Domestic Abuse Defined.

"Domestic abuse" is defined by the Iowa Code to mean committing assault under any of the following circumstances:

- a. The assault is between family or household members who resided together at the time of the assault.
- b. The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.
- c. The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.
- d. The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.
- e. (1) The assault is between persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault. In determining whether persons are or have been in an intimate relationship, the court may consider the following nonexclusive list of factors:
 - (a) The duration of the relationship.
 - (b) The frequency of interaction.
 - (c) Whether the relationship has been terminated.
 - (d) The nature of the relationship, characterized by either party's expectation of sexual or romantic involvement.
- (2) A person may be involved in an intimate relationship with more than one person at a time.

B. Court Procedures for Domestic Abuse Protective Orders

Regarding Protective Orders on Domestic Abuse situations, any alleged victim of domestic abuse can obtain a civil protective order by going to the clerk of court and completing a form request for a protective order. The clerk of court will immediately arrange for the person to see a judge. The judge will hold an *ex parte* hearing (where the court listens to only one side of the dispute) and will issue a temporary protective order if the Court is persuaded that there is a present danger of domestic abuse to the person seeking the order. Iowa Code section 236.4(2).

The court may order temporary custody of or establish temporary visitation rights with regard to children under eighteen years of age. In ordering temporary custody or temporary visitation rights, the court is required to give primary consideration to the safety of the alleged victim and the children. If the court finds that the safety of the alleged victim or the children will be jeopardized by unsupervised or unrestricted visitation, the court is required to set conditions or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of the victim and the children. Iowa Code section 236.4(3).

The temporary order granted by the judge will be in effect until a hearing on the case can take place which is usually about 10 to 15 days after the temporary order is issued. A permanent order can be issued only after a court hearing in which the person seeking the order and the alleged abuser both have a chance to tell their sides of the story.

IV. The School District's response to No Contact and Protective Orders

A. Caution.

By their nature, No-Contact Orders and Protective Orders tend to be quickly obtained and are often temporary in nature. They are frequently modified or rescinded. They are often poorly understood by persons involved in emotional situations. Therefore, school officials should be careful to obtain copies and read for themselves the order, and they should verify that the orders that are provided to them are complete and current.

B. Who is bound by the Order?

No-Contact Orders and Protective Orders usually relate to relationships between persons and do not relate to places such as a school or a business premises. The orders keep one person away from another person where ever they may be. Such orders concern

the individual not being in the presence of the victim or otherwise communicating with him or her. If a chance meeting occurs, whether at a school or a grocery store, the orders require that the alleged abuser/harasser is to leave the area without communicating with the victim.

These Orders relate to the persons subject to the jurisdiction of the Court and are not necessarily binding on other third parties such as the School District. If School Districts are presented with a situation where a student has a protective order or no-contact order against another student, the School District is not required to obey the order. The School District has a duty to make educational services available to all eligible students and also a duty to keep all students reasonably safe at school and school activities. Therefore, School Districts should try to accommodate the restrictions placed on the student subject to the Order, but if the School District is unable to make a reasonable accommodation, then the duty to make available educational services to all students must yield to the duty to protect students from harm while they are attending school and school activities. Alleged abusers/harassers may have to be restricted from attending a particular class or activity or receive their education in a particular setting.

C. Recommendations to Schools for Responding to No-Contact and Protective Orders

- 1) Train school staff about domestic violence and dating violence and response. Many of the student vs. student situations will have started out with the individuals dating.
- 2) Identify a person on staff who will be responsible for coordinating the school's response to the protective order or no-contact order.
- 3) In the creation of the plan to respond to the protective order, offer a safety plan with the students while at school which is separate from the protective order's implementation.
- 4) Do not pressure the victim into compromising on a plan to educate both individuals in the same class or building.

- 5) Do not require the victim to change classes, lockers, schools or quit an extracurricular activity, unless that is her/his desire.
- 6) If the victim decides not to compromise on a plan, do not share this reason why the plan was not possible with the alleged abuser/harasser.
- 7) Take reasonable steps to ensure that the victim and alleged abuser/harasser do not come into contact with each other or communicate at school or school activities. This may include requiring the alleged abuser/harasser to: arrange for other school transportation if the two students ride the same bus; change classes or lockers; no longer participate in an extracurricular activity; refrain from going on a field trip or other school trip; pass between classes at a different time; or, eat lunch in a different location or time. While the school district is not required to go to extra expense, the district may also have an employee personally supervise the alleged abuser/harasser during restroom breaks, passing times, or other times when contact may be more likely.
- 8) Make sure to emphasize with the victim that he or she should immediately report to the administration or a teacher if the alleged abuser/harasser is violating an order at school, at a school activity, or using school technology.
- 9) If the alleged abuser/harasser fails to follow the no-contact order or protective order, the school should inform all those involved including law enforcement and may take disciplinary action of its own.
- 10) These orders are sometimes put into place on an emergency basis without a complete court hearing having taken place. Therefore, school personnel should be careful about stating that the alleged abuser/harasser actually abused someone else. This information should be treated as confidential student information.

V. Dealing with Disruptive Adults

A. Trespassing.

Just because the public school is also “public property,” that does not mean that persons can be on school premises anytime they want. Iowa law prohibits an individual from entering or remaining on property without justification after being asked to leave or

stay away by a public employee with the duty to supervise the property. Iowa Code § 716.7. Additionally, individuals are prohibited from harassing anyone while on another's property, without permission. Id. This means that administrators have the right to ask a parent or other person to leave if the parent's conduct is aggressive or threatening, or is otherwise substantially disruptive to the school environment and/or school activities.

When taking such action, school officials should make sure that they are not restricting parent speech or removing an individual from school property because they disagree with the content of the speech (e.g. a parent criticizing school officials or policies). It should be done to prevent a disruption to the educational environment—including harassment of teachers, students, or other members of the school community.

B. Harassment.

In extreme situations, adults who are badgering school employees may be engaging in criminal harassment. School officials may call law enforcement for assistance if and when they believe adults have gone too far. The Iowa Code defines criminal harassment as follows:

Iowa Code Section 708.7. Harassment

1. a. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:

(1) Communicates with another by telephone, telegraph, writing, or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

(2) Places a simulated explosive or simulated incendiary device in or near a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.

(3) Orders merchandise or services in the name of another, or to be delivered to another, without the other person's knowledge or consent.

(4) Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the act did not occur.

b. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate, or alarm that other person. As used in this section, unless the context otherwise requires, "personal contact" means an encounter in which two or

more people are in visual or physical proximity to each other. "Personal contact" does not require a physical touching or oral communication, although it may include these types of contacts.

Even before an adult engages in such criminal harassment, school officials may take the initiative to advise the adult that their conduct is unwelcome (and likely counter-productive), and that continuing the objectionable conduct may result in exclusion of the adult from school premises and activities and other actions against the adult.

VI. Suggestions for Dealing with Difficult Parents.

A. Listen. School officials should make an attempt to listen to and understand parent concerns, even if they disagree or believe the concerns are without merit. Many situations go from bad to worse because parents feel that their concerns are being ignored by the school. On the other hand, school officials who actively listen to and address parent concerns are often able to maintain the parent-school partnership and avoid costly litigation.

B. Channel. Some conduct or speech is more appropriate in another setting. The Parent who wants to interrupt class to speak with a teacher should be redirected to another time or setting.

C. Preventative Policies. Adopt clear, reasonable policies governing parent involvement. Because such policies may be viewed as "prior restraints" on speech, they must be designed to maintain discipline or prevent disruption to the school environment, and must be narrowly drawn to achieve those purposes. Policy ideas may include:

1. A policy explaining appropriate conduct at sporting events and other extra-curricular events;
2. A policy clarifying the procedure for speaking at a school board meeting;
3. A policy detailing the specific times at which teachers will be available to meet with parents to discuss educational or disciplinary concerns.

D. Take a prompt, appropriate, measured response. Promptly respond when parents conduct themselves in such a way as to lead one to believe that their conduct may

cause a material and substantial disruption of school activities – or unreasonably interfere with the rights of others.

1. Ask parents to refrain from potentially disruptive conduct.
2. Ask parents to leave the premises. Call law enforcement if necessary.
3. Set restrictive ground rules for parents who have caused disruptions.
4. Seek a restraining order in extreme circumstances.

SAMPLE SUPERINTENDENT’S OR PRINCIPAL’S LETTER

Certified Mail or Hand Delivered

Date

Name of Person to be Excluded

Address of Person

Re: Access to School Property and School Staff

Dear Name:

(Describe the Conduct: For example: You were involved in an incident on (date) that resulted in a disruption of school activities at (_____) School. You were involved in a loud and disruptive episode in the school office. You then interrupted class which was underway in (Teacher’s) classroom. You have shouted at school staff members on more than one occasion at school including (staff member) and me.)

The School District’s first responsibility is to provide a safe and orderly environment for everyone concerned. As school officials, we must ensure that classes and activities are not disrupted by any activity that threatens the safe and orderly operation of the school. We also have an obligation to ensure that students and staff members are not subjected to abuse or disrespect while they are involved in their activities or work for the school. (Your conduct has been disruptive, disrespectful and abusive. (Or) Your presence threatens to interfere with the safe and orderly operation of the school.)

Because of your conduct, you are hereby no longer welcome on the campus at () School unless you have a prior appointment with me. If you wish to come on the campus to see a staff member or to participate in any school programs or activities, you must contact me in advance to make an appointment. If you come to the campus at () School without a prior appointment, you may be asked to leave. If you refuse to leave, school staff members may consider you a trespasser and may call law enforcement for assistance.

(Optional) If you drop off or pick up your student from school, please make arrangements to do so off campus. Please be aware that any conduct off campus which threatens the safe and orderly environment of the school will be reported to law enforcement.

We regret that these measures are necessary, but the District's first obligation is to make sure the school is safe and orderly for everyone concerned. We appreciate your cooperation with this request.

Very truly yours,

Principal, _____ School

SAMPLE ATTORNEY'S LETTER

Dear Mr. _____,

This Firm represents the _____ Community School District. We have been apprised of your many communications to various School District staff and your conduct on school premises. School staff including the Superintendent have tried to work with you, but you have responded with sarcasm and contempt, you have made unreasonable demands, and you have refused to follow simple directions about how best to communicate what legitimate concerns you could have.

Your communications to school staff have been discourteous, disrespectful and disruptive. Your communications with staff at the school have become worse than annoying. You have conducted yourself in such a way that you have been a hindrance to the important work of staff members who are responsible for serving all of the School District's students and their families.

This letter is intended to provide you with directions as to how you can communicate with school staff. You are not to contact Coach _____ either directly or indirectly unless you are dealing with an immediate health or safety emergency. For all other communications, if you have a sincere and legitimate concern to communicate with any school staff, your communications must be directed to the Superintendent, Principal _____ or Activities Director _____. One of these individuals will respond to you as they deem appropriate and not necessarily as you may demand that they respond.

This letter is also intended to provide you with a fair warning of the possible consequences of your actions. If you refuse to comply with these directions, if you contact Coach _____ other school staff, or if your communications to the Superintendent or her secretary prove to be unreasonable and/or without legitimate purpose, the School District will notify law enforcement and seek criminal prosecution for harassment and/or any other applicable criminal offense. Furthermore, the School District also may seek other civil remedies such as an injunction retraining you from contacting school staff.

Please take heed of these directions and govern yourself accordingly.

Cc: County Attorney