



Cyberbullying and Schools

Where are the boundaries of the
“schoolhouse gate” in cyberspace?

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The following presentation does not constitute legal advice

The Challenges

The more harmful incidents of cyberbullying occur when students post material targeting other students while off-campus

- Because this is where they have much greater unsupervised use

But the harmful impact is also at school

- Because this is where students are physically together

The Challenges

Cyberbullying is also occurring on campus

Students are using cell phones and other devices to engage in cyberbullying

- Students may not report because they could get into trouble for using the cellphone or device in school
- Reviewing cell phone records without parent permission is likely a violation of state wiretapping law

Students can easily bypass the district filter to access sites where they can cyberbully other students

Free Speech vs. Student Safety

- Students have important free speech rights
- School officials have an important obligation to ensure the safety of students and the delivery of instruction

Regardless of where the speech occurs, when the impact significantly jeopardizes the safety of students or the delivery of instruction, school officials must be able to respond as they deem necessary

Authority & Responsibility

Authority

Legal right to impose formal discipline or restrictions

Responsibility

Legal obligation to exercise reasonable precautions and to respond to reports of concerns

District Internet System

School officials have the **authority** and **responsibility** to respond to any on-campus or off-campus harmful or inappropriate speech through the district Internet system

- Have the ability to supervise and technically monitor

Cellphones and PDDs On-Campus

School officials have the **authority** and **responsibility** to respond to any harmful speech that takes place while students are using cell phones or other devices on-campus

- Ability to monitor and review is limited, so must depend on student report
- Searching a student's cell phone or device without parent permission may violate state wiretapping laws

Substantial Disruption

School officials have the **authority** to impose discipline for off-campus online speech when that speech has or a reasonable person would anticipate it will ...

- Cause a substantial disruption at school or interfere with the rights of students to be secure
- Or is a "true threat"
- But **not** disliking or being upset by content
 - Speech that targets staff will rarely meet standard

Substantial Disruption

What is "substantial disruption?"

- Significant interference with instructional activities, school activities, or school operations
- A hostile environment for any student that impairs that student's ability to participate in educational programs or school activities
- Physical or verbal violent altercations between students

Hostile Environment

School officials *may* have the **responsibility** to respond to off-campus online speech that has created a hostile environment at school for a protected class student

School officials **definitely** have a **responsibility** to respond if the district Internet system was used or there are associated on-campus altercations
- So it is imperative to fully investigate!

Extra-Curricular Activities

The combination of harmful off-campus online activity directed at students from another school and presence of students at competition events can create disruption at those events

- Schools have greater ability to discipline in context of extra-curricular activities
- But probably should follow substantial disruption standard

Guidelines

- All safe school personnel must have the ability to immediately bypass the filter to investigate potential concerns online
- Fully investigate and retain all evidence
 - Always investigate the possibility of on-campus activities
 - Remember that sometimes the student who posted the harmful material is the victim in the overall situation
- Do not impose excessive discipline

Guidelines

- Do not impose discipline based on dislike or disapproval of student speech
- If speech targets staff seek informal resolution
- With or without formal discipline, other actions must be taken to address the harm and prevent retaliation
- If you are ever unsure, consult your school attorney

Cyberbully Policy Language

- ... takes place ... through the use of the district Internet system while on or off-campus, through the use of a personal digital device on campus, or off-campus activities that cause or threaten to cause a substantial disruption at school
- "Substantial disruption" means
 - Significant interference with instructional activities, school activities, or school operations
 - A hostile environment for any student that impairs that student's ability to participate in educational programs or school activities
 - Physical or verbal violent altercations between students

More Information

This presentation is a brief overview of the subject

A more complete narrated presentation is under development and will soon be available from the Center for Safe and Responsible Internet Use

Additional Resources



- *Cyberbullying and Cyberthreats: Responding to the Challenge of Online Aggression, Threats, and Distress* (Research Press)
- *Cyber-Safe Kids, Cyber-Savvy Teens: Helping Young People Learn to Use the Internet Safety and Responsibly* (Jossey Bass)
- Center for Safe and Responsible Internet Use Web Site <http://csriu.org>
 - Coming soon: Professional development presentations & materials
