



Cyber Bullying

A punch in the eye seems so passé. Bullies these days are traveling in packs and using cyberspace to their humiliating messages online. Like the toughies of old, they are both boys and girls and they demand nothing less than total submission as the price of peace.

It's a jungle out there.

For school districts, patrolling the hallways and adjacent grounds is just a start. In the 21st century, a new kind of vigilance is necessary—an expanded jurisdiction that serves to both stave off legal actions and ensure a safe and productive learning environment.

Today's principals rely on district policy and practice to extend the presumed long arm of the law to off-campus incidents. Potentially, that could mean plunging headlong into the electronic frontier to rescue student victims and thwart cyberbullying classmates who thrive as faceless computer culprits.

Last month we looked at cybersullying, the phenomenon in which teachers or other school employees misuse technology to the point where it affects their job. This month we focus on the student side of the equation, and how the Internet, phones, and other devices become 21st Century bullying tools.

Bullying each other

Bullying and harassment are still personal, but have taken on a new tenor. It is likely that several students will collaborate in the harassment. It can be analogous to gangs, but without initiation or "colors," and the alliance can be ephemeral—for one purpose—as opposed to a long-term protectorate. In other words, the enemy of my enemy is my cyberbullying friend.

That organized effort can result in multiple and progressively more threatening messages. It even can be reinforced in real time with snide comments during recess or at the bus stop. There are many methods for cyberbullying: harassment by text message, voice mails, e-mails, chat rooms, social networking sites, and instant messaging. The assault can come from so many directions that a youngster feels bombarded and uneasy in any environment.

The impact is not trivial. A December 2009 study by Harvard University's Berkman Center for Internet & Society found that students on the receiving end report greater emotional distress, are more likely to abuse substances, and are more frequently depressed.

The report concluded a child is more likely to face cyberbullying by fellow students than being stalked by an online predator. "Bullying and harassment are the most frequent threats minors face, both online and offline," notes the Harvard report, *Enhancing Child Safety & Online Technologies: Final Report of the Internet Safety Task Force to the Multistate Working Group on Social Networking of State Attorneys General of the United States*.

Bullying can take a variety of forms. Incidents have included stealing passwords, impersonating the victim online, fake MySpace or Facebook pages, embarrassing photos or information being revealed, threats, rumors, and more. And, bullying tends to magnify the longer it exists.

Often, the cyberbullied student also is the student bullied in real life at school. From a legal and investigative standpoint, however, a cyberbullying incident can leave evidence that doesn't exist in a "he said, she said" scenario. Also, frequently the cyberbully is a friend or a former friend, narrowing the range of possibilities for school officials looking to ferret out the truth.

Many conflicting reports have been written about the nature of cyberbullying. They vary widely about the prevalence, impact, and nature of cyberbullies, and even about whether the victim and perpetrator know each other from school.

A recognized legal problem

Increasingly, state legislatures are considering new laws to address the problem. As of Jan. 1, California school districts are authorized to suspend or expel students who engage in cyberbullying. Other states with cyberbullying laws: Arkansas, Delaware, and South Carolina in the South; New Jersey and Michigan in the Northeast; Idaho, Iowa, Minnesota, Nebraska, and Oklahoma in the Midwest; and Oregon and Washington state in the Northwest.

U.S. government agencies also have addressed cyberbullying. The Department of Justice has developed instructional information on the topic and the Federal Trade Commission has educational websites. One group, the Family Online Safety Institute, is asking President Obama to appoint a national safety director to contest cyberbullying and manage other online safety issues for kids.

Shaheen Shariff, a professor at McGill University in Montreal, Quebec, Canada, has written two books on the subject. *Cyberbullying: Issues and Solutions for the School, the Classroom and the Home* was published in 2008, and *Confronting Cyberbullying: What Schools Need to Know to Control Misconduct and Avoid Legal Consequences* will be released this spring.

In 2008, Florida passed the "Jeffrey Johnston Stand Up for All Students Act," named after a Cape Coral firstgrader who killed himself after being bullied and cyberbullied. The law

requires Florida schools to do what already is prudent, such as adopt a districtwide policy prohibiting bullying and harassment and specify procedures for reporting, investigating, notifying, and referring cyberbullying cases.

Usually, federal courts rely on the *Tinker v. Des Moines* standard that asks whether cyberbullying has caused a

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material or substantial disruption or the reasonable potential exists. In 1971 when the case was decided, however, no one could have anticipated the invisible quilt weaving kids at school with their online actions at home.

But the difficulty of application is not a green light to squelch all harsh student speech off campus. The 3rd U.S. Circuit Court of Appeals recently heard oral arguments in a case involving a Pennsylvania high school senior who was suspended for 10 days because of a MySpace page mocking his principal.

The page claimed the principal had beer in his desk and took drugs. Citing *Tinker*, a lower court dismissed the suspension, saying the fake profile did not create a "substantial disruption" at school.

"Public schools are vital institutions, but their reach is not unlimited," U.S. District Judge Terrence McVerry said in the earlier ruling.

Cyberbullying school staff

One variation on this theme is worth exploring. Students sometimes will cyberbully teachers or other school employees.

In January, a federal court in Connecticut ruled that Regional District 10 was within its rights to discipline a student over an off-campus blog. Judge Mark Kravitz rejected Avery Doninger's claim that the school violated her free speech rights when they refused to let her serve as class secretary or to speak at graduation because of words she wrote at home.

Writing at home about a battle-of-the bands style competition called "Jamfest," Doninger wrote that "Jamfest is canceled due to the douche bags in central office," and encouraged readers to write to or call then-Superintendent Paula Schwartz to "piss her off more."

According to the *Hartford Courant*, the school district won "because the discipline involved participation in a voluntary extracurricular activity, because schools could punish vulgar, off-campus speech if it posed a reasonably foreseeable risk of coming onto school property, and because Doninger's live journal post was vulgar, misleading, and created the risk of substantial disruption at school."

In Florida, a high school senior and honor student was accused of cyberbullying after she wrote on Facebook: "Ms. Sarah Phelps is the worst teacher I've ever met! To those select students who have had the displeasure of having Ms. Sarah Phelps, or simply knowing her and her insane antics: Here is the place to express your feelings of hatred." Katherine Evans, who was suspended for "bullying and cyberbullying harassment toward a staff member," sued the charter school in December 2008. A final ruling is pending.

In a 2007 incident, 19 students were suspended at a Catholic high school near Toronto for cyberbullying a principal on Facebook. The students called the principal a "Grinch of School Spirit" and made vulgar and derogatory comments.

While the U.S. Constitution does not necessarily apply in private school settings, the incident demonstrates that this kind of behavior can happen anywhere.

The policy response

Districts should have a cyberbullying policy that takes into account the school's values as well as the school's ability to legally link off-campus actions with what is happening or *could* happen at school.

Today's techno-gizmos mean students have one more outlet for their immature thoughts and impulsive acts. Schools must have rules to warn them against their own worst tendencies and then punishment severe enough to deter students who might be tempted to accept the consequences.

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Policy questions to consider

- Does your policy cover cyberbullying of both student peers and school staff?
- Do you have staff members or can you easily hire individuals with computer or other electronic expertise to investigate instances of anonymous harassment?
- Does your anti-bullying curriculum and professional development agenda include information on coping with bullying of the cyber variety?
- At what point should police get involved, and is that spelled out in regulations or left to the discretion of the principal or other senior administrator?