

FACT SHEET

August 2008

Volume 3—Issue 5

Off School Grounds Cyberbullying

by Sherry Runk

What can administrators and educators do when cyberbullying takes place off school grounds but continues in school through retaliation of threats, sharing of inappropriate emails or images, or conflicts escalating in schools?

Consider whether or not:

- The creator of the speech has engaged in any on-campus activities related to the off-campus speech sufficient to establish a "school nexus" or connection.
- The speech has resulted in a substantial and material disruption or could reasonably be expected to result in a material and substantial disruption.

Legal Cases

- **Tinker v. Des Moines Independent Community School District**: The school can impose discipline if the school could establish that "the conduct materially and substantially interfered with the education process" ("...disrupts the work and discipline of the school") or interferes "...with the rights of other students to be secure and left alone".
- **Bethel School District v. Fraser**: School could discipline because of student's vulgarity in a school assembly but if same speech was outside of the school environment, he could not have been penalized simply because officials considered language to be inappropriate.
- **Hazelwood School district v. Kuhlmeier**: Schools may impose restrictions on speech that appears to be school sponsored.
- **Thomas v. Board of Education**: "...the arm of authority does not reach beyond the schoolhouse gate" but school officials were entitled to discipline IF off-campus speech "incites substantial disruption within the school from some remote locate."
- **Killion v. Franklin Regional School District**: Court determined the district would need to establish that there was a "substantial disruption" before it could take action.

- **J. S. Bethlehem Area School District**: Used *Tinker* standard.

Speech that meets the standards of a "true threat" would not be considered constitutionally protected speech. In a true threat

- The person intended that the statement be taken as a threat, even if the person had no intention of actually carrying out the threat.
- The statement was in fact threatening.

Title VI of the Civil Rights Act of 1964 AND Title IX of the Education Amendments of 1972

- Schools can face liability if they allow a "hostile environment"—So severe, pervasive, and objectively offensive that it undermines/detracts from the targets' educational experiences thus effectively denying equal access.

Action

- Notify parents of students who are bullied and those suspected of doing the cyberbullying.
- Communicate the suspicions to the appropriate staff and increase supervision of all involved.
- Use your Situation Review Team to investigate allegations
- Contact law enforcement if threats of violence is involved.

Resource

The information above was taken from *Cyberbullying and Cyberthreats* by Nancy E. Willard.

Sherry Runk is a Senior Trainer at the New York State Center for School Safety.

