

National School Boards Association Legal Clips (2/14/08)

SCHOOL SAFETY

More states drafting legislation to combat cyberbullying

The suicides of a 13-year-old Missouri girl who was the victim of an Internet hoax and a 13-year-old boy in Vermont bullied online by peers who spread rumors that he was gay—along with complaints from teenagers, parents and educators—are spurring an increasing number of state lawmakers across the USA to draft legislation giving schools more power to do something about bullying over the Internet. Most of the laws are confined to the use of school computers or networks. Others, such as those passed in Arkansas and Delaware, call for education officials to take action against off-campus bullying that disrupts their schools. In New Jersey, some school districts, taking a cue from state officials, are considering policies that assert their authority outside of school. Such policies are raising concerns, both about infringing on freedom of speech and about intruding into students' private lives. After New Jersey passed a law last year requiring schools to ban cyberbullying, the state Department of Education issued guidelines. School administrators were told they "may impose consequences" for off-campus bullying, but only when it "substantially interferes" with a school's operation. Max Riley, superintendent of the Randolph School District, said his district considered a policy used in other districts that goes further than the state statute by stating school officials "will impose consequences" on certain acts of off-campus bullying. Randolph's finished policy will exclude references to off-campus behavior, Riley said. "I am leery of going too far and trying to regulate too much of private life, even though I abhor some of the things that kids put up on the Internet about each other," Riley said.

The American Civil Liberties Union (ACLU) has opposed some cyberbullying laws, arguing they set up school officials to trample on students' First Amendment rights. The ACLU helped block a proposal last year to expand an Oregon law to include off-campus bullying, arguing that school officials have no right to impose punishment on students for what they do away from school. Nancy Willard, executive director of the Center for Safe and Responsible Internet Use (CSRIU) in Oregon, lobbied unsuccessfully to expand the law, contending most bullying takes place on home computers. Megan Meier's suicide in Missouri prompted Gov. Matt Blunt to create an Internet Harassment Task Force. Last month the task force proposed making it a crime to harass someone over the Internet. It also called on state education officials to create computer ethics classes. New cyberbullying laws could lead to freedom-of-speech challenges, according to Vito Gagliardi, a New Jersey attorney who represents school districts. "Someone might say it's my opinion so-and-so is a nerd and the First Amendment allows me to say that," Gagliardi said. "There's not a large body of case law that addresses that issue."

Source: USA TODAY, 2/7/08, By Abbott Koloff

[Editor's Note: In a companion piece to the article excerpted above, USA TODAY lists states that have enacted cyberbullying laws. That list and additional news and resources on legal questions raised by anti-cyberbullying efforts are below.]

USA TODAY list

NSBA School Law pages on state laws

NSBA School Law pages on off-campus online speech

American School Board Journal, July 2007, By Thomas Hutton

CSRIU on cyberbullying legislation and school policies