

Cyberbullying Policy Considerations for Boards

Schools have long had to deal with bullying among students, including hitting, teasing, name-calling, intimidation, harassment and social exclusion. But in recent years, technology has given teenagers, and even younger students, a new and more anonymous venue for bullying their peers.

Students are frequent users of the Internet and other technologies — sending e-mail, creating Web sites, posting personal news in blogs (online interactive journals), sending text messages and images via cell phones, contacting each other through instant messages (IMs), posting on social networking sites (e.g., Facebook, MySpace, Xanga), and posting to discussion boards. Now, students are using these technologies to bully their peers and sometimes to harass school staff.

The challenge for schools is not only in identifying and stopping such conduct so that students and staff feel safe at school, but determining the limits of their authority when the so-called “cyberbullying” is initiated outside of school and during non-school hours.

What is cyberbullying?

“Cyberbullying,” sometimes referred to as Internet bullying or electronic bullying, has been defined as the “willful and repeated harm inflicted through the medium of electronic text.”¹ It may involve:

- sending mean, vulgar or threatening messages or images;
- posting sensitive, private information about another person;
- pretending to be someone else in order to make that person look bad; and

- intentionally excluding someone from an online group.²

Like other forms of bullying, cyberbullying is an effort to demonstrate power and control over someone perceived as weaker. It sometimes involves relationships, sometimes is based on hate or bias (e.g., based on race, religion, sexual orientation or physical appearance), and sometimes is perceived as a “game” by those who are the perpetrators.

Cyberbullying may be a carryover of bullying that is occurring at school. Sometimes students who are victimized at school retaliate online and become cyberbullies themselves.

Why do people do things online that they would never do in real life? Researchers have theorized that when people use the Internet, they perceive they are invisible and anonymous. This is not true because most online activities can be traced. However, if someone perceives he or she is invisible, this removes concerns about detection, disapproval or punishment. Also, the lack of face-to-face contact leads to less empathy by the perpetrator toward the victim and results in the misperception that no real harm has resulted.³

Extent of the problem

The growing use of the Internet and other technologies among today’s youth suggests that cyberbullying is likely to become an increasing problem. A national survey conducted in 2005 showed that 87% of teenagers use the Internet; 68% of all teenagers said they use the Internet at school. This represents about a 45% increase over four years.⁴

¹ Patchin, J.W., & Hinduja, S. (2006) Bullies move beyond the schoolyard: A preliminary look at cyber bullying. *Youth Violence and Juvenile Justice*, 4(2), 148-169.

² Willard, N. (2005), cited in U.S. Department of Health Resources and Services Administration (HRSA), Fact Sheet, <http://stopbullyingnow.hrsa.gov>

³ Willard, N. (2007, April) *Educator’s Guide to Cyberbullying and Cyberthreats*. Center for Safe and Responsible Use of the Internet.

⁴ Pew Internet Project (2005, August 2) *The Internet at School*. www.pewinternet.org/PPF/r/163/report_display.asp

Recent research related to the incidence of cyberbullying has found:

- 18% of students in grades 6-8 said they had been cyberbullied at least once in the last couple of months, and 6% said it had happened to them two or more times.⁵
- 11% of students in grades 6-8 said they had cyberbullied someone in the last couple of months. Of these, 60% had cyberbullied another student at school and 56% had cyberbullied a friend.⁶
- One-third of teens ages 12-17 and one-sixth of children ages 6-11 reported that someone said threatening or embarrassing things about them through e-mail, instant messages, Web sites, chat rooms or text messages.⁷
- Twice as many children and youth indicated that they had been victims and perpetrators of online harassment in 2005 compared with 1999-2000.⁸
- Girls are about twice as likely as boys to be victims and perpetrators of cyberbullying.⁹
- 38.3% of girls ages 8-17, the majority of whom were in high school, said they had been bullied online. Higher numbers were reported for specific behaviors such as being ignored (45.8%) and being disrespected (42.9%). But some girls did report more serious behaviors such as being threatened (11.2%).¹⁰
- Of the girls ages 8-17 who reported being a victim of online bullying, only 20.5% said they never knew who was bullying them. Thus, most appear to know the bully and report that the bully was “a friend” from school (31.3%), someone else from school (36.4%) or someone from a chat room (28.2%).¹¹
- A different result was found among those students in grades 6-8 who had been cyberbullied at least twice in the last couple of months, with 55% saying they

did not know who had cyberbullied them. Of those who did know, 62% said they had been cyberbullied by another student at school and 46% had been cyberbullied by a friend.¹²

How does cyberbullying impact victims and bullies?

Although there has been little research specifically on the effects of cyberbullying, traditional bullying has been shown to cause psychological and emotional harm to youth and to affect school attendance and academic performance. Low self-esteem, depression, anger and, in extreme cases, school violence or suicide have been linked to bullying.

A 2001 fact sheet on juvenile bullying by the Office of Juvenile Justice and Delinquency Prevention reports that victims of bullying fear going to school and experience feelings of loneliness, humiliation and insecurity. They also tend to struggle with relationships and have difficulty making emotional and social adjustments.¹³

In another study on the effects of traditional bullying, 38% of the victims said they felt vengeful, 37% were angry and 24% felt helpless. In this same study, 8% of the students surveyed said traditional bullying has affected them to the point where they had attempted suicide, run away, refused to go to school or been chronically ill.¹⁴

It is reasonable to expect that cyberbullying would have similar effects. Nancy Willard, executive director of the Center for Safe and Responsible Use of the Internet, believes the harm caused by cyberbullying could possibly be even greater than the harm caused by traditional bullying because online communications can be distributed worldwide and are often irretrievable; cyberbullies seem anonymous and can solicit the involvement of unknown “friends”; and teens may be reluctant to tell adults what is happening because they fear their online activities or cell phone use will be restricted.¹⁵

⁵ Kowalski, R., et al. (2005, August) Electronic Bullying Among School-Aged Children and Youth. Presented at the annual meeting of the American Psychological Association, Washington, DC

⁶ Kowalski, R., et al. (2005)

⁷ Fight Crime: Invest in Kids. (2006, August 17) “1 of 3 Teens and 1 of 6 Preteens Are Victims of Cyberbullying.” News Release.

⁸ Wolak, J., Mitchell, K., & Finkelhor, D. (2006) *Online Victimization of Youth: Five Years Later*. National Center for Missing & Exploited Children.

⁹ Kowalski, R., et al. (2005)

¹⁰ Burgess-Proctor, A., Patchin, J.W., & Hinduja, S. (2006, October) *Cyberbullying: The Victimization of Adolescent Girls*, www.cyberbullying.us

¹¹ Burgess-Proctor, A., et al. (2006)

¹² Kowalski, R., et al. (2005)

¹³ Office of Juvenile Justice and Delinquency. (2001, June) Addressing the Problem of Juvenile Bullying. Fact Sheet.

¹⁴ Borg, M.G. (1998) The emotional reactions of school bullies and their victims. *Educational Psychology*, 18(4), 433-444.

¹⁵ Willard, N. (2007)

Schools need to be equally concerned about the health, welfare and education of the students who are the perpetrators of cyberbullying. These students have been shown to suffer from many of the same psychological and emotional difficulties as their victims — such as low self-esteem, anger and social isolation — and to exhibit other problem behaviors such as drinking alcohol and performing poorly academically. There is also evidence that these problem behaviors may carry over into adulthood. One study found that 4 of every 10 boys who bullied others as children had three or more legal convictions by the time they turned age 24.¹⁶

Legal issues regarding off-campus conduct

District policy pertaining to cyberbullying should distinguish between bullying initiated on school campus using district equipment and systems and bullying initiated by students off campus during non-school hours. Districts have the authority to monitor their own systems and to take away computer privileges and impose discipline for improper use. However, off-campus conduct raises First Amendment concerns and requires a greater burden of proof and caution regarding the imposition of discipline.

Education Code 48950 provides a free speech right based on what a student may do outside of the school environment. That is, if the off-campus speech or communication is protected free speech, no discipline may be imposed unless, pursuant to Education Code 48907, the expression is “obscene, libelous or slanderous” or “material which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations or the substantial disruption of the orderly operation of the school.”

Discipline for off-campus cyberbullying has been largely untested in the courts. Discussions about legal issues pertaining to off-campus student speech usually cite *Tinker v. Des Moines Independent Community School District*. In *Tinker*, the court clarified that school personnel have the burden of demonstrating that the speech or behavior resulted in a substantial interference with the educational environment or the rights of others.

Although not binding on California school districts, a Pennsylvania case (*J.S. v. Bethlehem Area School District*,

2000) found that schools do have the authority to discipline students when off-campus speech or behavior results in a clear disruption of the classroom environment. In that case, a student had been expelled for creating a Web site that included threatening and derogatory comments about specific school staff. Similarly, in *Laycock v. Hermitage School District* (2006), a U.S. District Court found that a Web site parody making fun of the principal in a non-threatening, non-obscene manner was subject to discipline because it did disrupt the educational program by requiring staff time to resolve the problem and resulted in a shutdown of the computer system.

On the other hand, in *Emmett v. Kent School District No. 415* (2000), the U.S. District Court for western Washington found that a student’s Web site with mock obituaries of students and an online mechanism for visitors to vote on who should die next did not actually intend to threaten anyone and there was insufficient evidence of school disruption. In *Beussink v. Woodland R-IV School District*, a federal court in eastern Missouri found that a student’s use of vulgar language to criticize his school and its faculty on an off-campus Web site was protected by the First Amendment because it was not materially disruptive.

A recent U.S. Supreme Court decision may also impact a district’s ability to impose discipline for off-campus conduct. In *Frederick v. Morse*, the court confirmed that a student’s free speech rights are limited by the special circumstances of the school environment and that a student could be disciplined because his banner proclaiming “Bong Hits 4 Jesus” could be viewed as promoting illegal drug use, and not merely offensive speech.

The impact of these decisions on California schools is yet to be determined. California law and the court decisions are consistent in underscoring the importance for districts to show that there is a nexus between the online posting and disruption at school. They also highlight the need to analyze whether language is more than just offensive and is a “true threat.”

It is recommended that districts consult legal counsel before implementing formal student discipline in cases of off-campus conduct. Other types of response, such as talking to the student who engaged in cyberbullying, notifying his or her parents about the behavior, notifying the Internet service provider or site, or contacting law enforcement as warranted may still be implemented.

¹⁶ Banks, R. (1997) Bullying in Schools. ERIC Digest No. EDO-PS-97-17. Champaign, IL: University of Illinois.

Policy considerations

Board policy on cyberbullying may be considered in the context of the district's overall approach to school safety, with the goal of providing a positive school environment that maximizes student learning. At the district's discretion, strategies to address bullying, including cyberbullying, may be incorporated into the district's or school site's comprehensive safety plan.

Policy development on this issue may include opportunities for input from district and/or school safety committees, school site councils, students, parents/guardians, district and site administrators, teachers, education technology staff and other technology experts, classified staff, community organizations and/or legal counsel.

CSBA's sample policy BP 5131 - Conduct has been expanded to provide optional language which more clearly prohibits cyberbullying and addresses the district's response in the event that cyberbullying occurs. In addition, BP/AR 6163.4 - Student Use of Technology prohibits use of the district's online system to engage in cyberbullying. Districts are encouraged to review these materials and adapt them to meet their unique circumstances. The district might also wish to review the following related policies and administrative regulations: BP/AR 0450 - Comprehensive Safety Plan, BP/AR 5145.12 - Search and Seizure (with respect to searches of students' personal property and district property under their control), and BP 5145.2 - Freedom of Speech/Expression.

As districts develop, review or revise policies or administrative regulations related to cyberbullying, they might consider the following issues:

- **Education of students, parents and staff.**

Because cyberbullying often occurs away from adult supervision, students must be informed about the dangers of cyberbullying, what to do if they or someone they know is being bullied in this way, and the district's policy pertaining to appropriate use of district technology and the consequences of improper conduct. Instruction might also be provided in the classroom or other school settings to explain the legal limits of online speech and to promote communication, resiliency, social skills, assertiveness skills and character education.

Similarly, school staff and parents should be educated on how to recognize warning signs of harassing/intimidating behaviors and provided with effective prevention and intervention strategies.

- **Acceptable use of the district's technological resources.** Schools have a duty to exercise reasonable precautions against cyberbullying using the district's Internet system. Board policy, as well as the district's Acceptable Use Agreement which students and their parents should be required to sign as a condition of using the district's technological resources, should include an explicit statement that prohibits the use of the district's system to bully or harass other students. An explicit prohibition against cyberbullying calls attention to the district's awareness of the problem and may be necessary to initiate discipline in the event that a student uses the district's system to harass another student or staff member.

- **Use of filters to block Internet sites.** The district may have already installed on district computers a technology protection measure that blocks or filters Internet access to visual depictions that are obscene, child pornography or harmful to minors. The effectiveness of these measures as a tool in preventing cyberbullying has been called into question and districts are cautioned not to over-rely on such measures for these purposes. However, many districts have blocked access to social networking sites, which are sometimes used to send negative content to others.

- **Supervision and monitoring of students' online activity.** Reasonable precautions against cyberbullying should include supervision of students while they are using the district's online services. Classroom teachers, computer lab teachers, library/media teachers or other staff overseeing student use of the district's online services should understand their responsibility to closely supervise students' online activities. If teacher aides, student aides or volunteers are asked to assist with this supervision, they should receive training or information about the district's policy on acceptable use.

In addition, districts have the right to monitor the use of their equipment and systems. If a district receives federal Title II technology funds or E-rate discounts, it is obligated under 20 USC 6777 or 47 USC 254 to enforce the operation of technology protection measures, including monitoring the online activities of minors. Districts should discuss how such monitoring will be accomplished, including whether they wish to track Internet use through personally identifiable Web monitoring software or other means.

Maintenance and monitoring of the district's system should be routine, technical and conducted by appropriate staff. Some districts use "intelligent content analysis" which monitors all Internet traffic

and reports on traffic that has elements that raise a “reasonable suspicion.” District staff can then review those reports. Another technical approach allows for real-time remote viewing of any computer monitor in the building.

Students should understand that there is no expectation of privacy and that use of the district’s system can be monitored. Clear notice of this fact may deter improper activity.

The law regarding searches of an individual student’s Internet use and computer files, even when there is reasonable suspicion that a student has violated district policy, is complex. Districts are advised to consult legal counsel before conducting any such searches.

- **Mechanisms for reporting cyberbullying.**

Students should be urged to notify school staff, their parents or another adult when they are being cyberbullied, they suspect that another student is being victimized, or they see a threat posted online. Students need to understand that if a threat turns out to be real, someone could be seriously hurt. However, districts need to understand that students are often reluctant to report to such incidents to an adult, in part because they fear retaliation by the aggressor or his or her friends. Thus, the district should consider ways that students can confidentially and anonymously report incidents.

- **Assessment of imminent threat.** The district’s procedures for responding to a report of cyberbullying should include processes to quickly determine the legitimacy and imminence of any threat. Often, what initially appears to be an online threat may actually be meant as a joke or may be an online fight (“flame war”) that is unlikely to result in any real violence. But the highest priority is doing what is necessary to protect against a possible real threat, including notifying law enforcement as appropriate. Students need to understand that adults may not be able to tell if their language is a joke or a threat, and that there are criminal laws against making threats.

- **Investigation of reported incidents.** Site-level grievance procedures already in place for other types of harassment (e.g., see AR 5145.3 - Nondiscrimination/ Harassment and AR 5145.7 - Sexual Harassment) may provide an effective vehicle for reporting and handling complaints of cyberbullying. The student who is being victimized should be encouraged to not respond to the cyberbullying and to save and print out the messages

(with full e-mail headers) or pictures as evidence rather than deleting them.

The investigation should include efforts to identify the individual who is harassing the student. There may be a way to track him or her through the Internet service provider, even if the individual is using a fake name or someone else’s identity. If the district suspects that the cyberbullying is criminal, local law enforcement may be asked to track the individual’s identity.

If it appears that the cyberbullying is initiated off campus, it will be necessary to show that it has substantially impacted school attendance or the educational program in order for the district to impose discipline on the student perpetrator (see section “Legal Issues Regarding Off-Campus Conduct” above). Thus, the investigation should also include processes for assessing and documenting the impact of the cyberbullying on students, staff or school operations.

- **Appropriate response to incidents of cyberbullying.** Existing school rules pertaining to student discipline may be used in the event that a student is found to have engaged in cyberbullying, or the district may decide that other actions are needed on a case-by-case basis. Depending on the seriousness of the harassment, responses might include notifying the parents of both the victim and perpetrator, filing a complaint with the Internet service provider or social networking site to have the content removed and/or the student’s user privileges revoked, using conflict resolution procedures, suspending or expelling the perpetrator, and/or contacting law enforcement if the behavior involves a threat of violence to a person, a threat of damage to property, extortion, obscene or harassing phone calls or text messages, stalking, a hate crime, invading someone’s privacy by taking a photo where there should be a reasonable expectation of privacy, or sending sexually explicit images of children or teens. The student perpetrator and his or her parents should be informed of the potential consequences to which they may be subjected, including potential civil law liabilities.

In addition, the district should consider ways it can provide support to the victim through counseling or referral to mental health services.

Resources

CSBA

CSBA's Governance and Policy Services Department issues sample board policies and administrative regulations on a variety of topics related to school safety, student conduct and technology. See www.csba.org. CSBA also provides advisories and publications on related topics, including *Protecting Our Schools: Governing Board Strategies to Combat School Violence*.

California Coalition for Children's Internet Safety

Partnered with the California Department of Consumer Affairs, the Coalition includes state organizations such as CSBA, business and education leaders, parent groups, government agencies, law enforcement and community organizations. Coalition activities are primarily focused on keeping children safe from online predators but provide useful information about Internet safety in general as well as cyberbullying. See www.cybersafety.ca.gov.

California Department of Education, Safe Schools

Provides information about key elements of an effective bullying prevention program and resources to help schools recognize bullying behavior and determine how to respond, including its own comprehensive publication *Bullying at School*. See www.cde.ca.gov/ls/ss.

Center for Safe and Responsible Internet Use

Provides research and outreach services to address issues of the safe and responsible use of the Internet. Publications include *Cyberbullying and Cyberthreats: Responding to the Challenge of Online Social Aggression, Threats and Distress* and *Cyber-Safe Kids, Cyber-Savvy Teens*. See <http://csriu.org> or www.cyberbully.org.

Fight Crime: Invest in Kids

A national, nonprofit organization of more than 3,000 law enforcement leaders which conducts and analyzes research to find out what works to prevent children from turning to a life of crime. Provides resources and a model bullying prevention program. See www.fightcrime.org.

MySpace.com

This popular social networking site offers advice for schools related to Internet safety in *The Official School Administrator's Guide to Understanding MySpace and Resolving Social Networking Issues*.

National Resource Center for Safe Schools

A project of the Northwest Regional Educational Laboratory, the Center offers technical assistance guides to help schools sustain safe learning environments. See www.safetyzone.org.

National School Safety Center

Offers a variety of school safety resources, including *Set Straight on Bullies* which describes myths and realities about bullying and strategies for educators. See www.schoolsafety.us.

U.S. Department of Education

The Office of Safe and Drug-Free Schools provides resources on violence prevention. See www.ed.gov/about/offices/list/osdfs/index.html.

U.S. Department of Health Resources and Services Administration (HRSA)

Offers an activity guide, video toolkit, tips sheets and other resources for its "Stop Bullying Now!" campaign. See <http://stopbullyingnow.hrsa.gov/adult/indexAdult.asp>

U.S. Office of Juvenile Justice and Delinquency Prevention

Includes information on Internet safety for children as well as cyberbullying. See www.ojjdp.ncjrs.org.

www.cyberbullying.us

An information clearinghouse for information on cyberbullying.