

Your Liability When Responding to Cyberbullying



Being cruel to others by sending or posting harmful material or engaging in other forms of social aggression online or using other technology, also known as cyberbullying, is a serious concern for school administrators. While school officials must proactively protect students and prevent disruptions, they are also legally obligated to respect students' right to free speech. Effectively maintaining this balance requires careful consideration of each specific case and cooperation with legal counsel. However, several general considerations apply.

Free Speech

According to a 1969 Court ruling, school officials can legally prohibit student speech only if it "would substantially interfere with the work of the school or impinge upon the rights of other students." In the past, this has applied to off-campus student newspapers, slogans on clothing and off-campus online speech. Determining whether material posted on a website would cause substantial disruption requires careful evaluation of the situation, potentially with legal guidance, and any action taken must be fully documented.

Your Responsibility

While it is important that school officials not overstep students' right to free speech when monitoring cyberbullying, they also must not take a passive role. When cyberbullying takes place through the use of a district Internet system, school-owned computers or other school property, liability concerns arise. To avoid negligence, schools must ensure that they exercise a reasonable standard of care by adopting and proactively enforcing an official bullying policy. While officials should always contact legal counsel to discuss the

extent of their liability, adequate precautions might include the following steps:

- Organize a planning effort to address current practices and implement an anti-cyberbullying program.
- Address policies on Internet use and management and ensure adequate monitoring of student Internet use.
- Educate faculty and students about the seriousness of cyberbullying and communicate related policies.
- Regularly assess the effectiveness of the anti-bullying program.

A district can be considered financially liable if school officials with authority to take action have knowledge of communication that creates a hostile school environment, yet they fail to do anything about it.

Bullying Prevention Resources

For more resources, visit <http://www.violencepreventionworks.org/public/index.page> or reach out to us First Fidelity Brokerage.



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