

Arizona Needs A Cyber-Bullying Law

Arizona schools and the Arizona legislature understand that bullying in school is a serious problem that can't be dismissed as "boys being boys" and just "kid stuff." Bullying is violent behavior that damages bullies and victims alike. Students who are the victims of bullying have difficulty concentrating in school, are absent more often than the average student, and suffer lower grades. Every day in the United States approximately 160,000 students in public schools skip school on account of bullying. And the students who engage in bullying behavior are more likely to use illegal drugs and alcohol, more likely to find themselves in aggressive relationships and more likely to wind up in prison. That is why Arizona, like most states, woke up and passed [a law](#) requiring schools to do something about bullying.

Unfortunately, the law doesn't go far enough. Neither, for that matter, does the Arizona School Board Association, which includes bullying prevention language in its suggested policies for local school districts. The language of the statute and the recommended policies were drafted like it's 1999. Did anybody hear about "MySpace" in 1999?

I once referred to the Internet as "the planet's id." The id, for those not familiar with Freudian theory, is [defined](#) as, "the source of instinctual impulses such as sex and aggression as well as primitive needs that exist at birth. It is entirely nonrational and functions according to the pleasure-pain principle, seeking immediate fulfillment of its impulses whenever possible." The Internet, with the wonders of connectivity and the resources it makes available, has dark and infamous channels where sexual predation, corruption, and violence reach out through email, websites, pop-up ads, text messaging, and chat rooms. Explore those channels and you will find children there.

Much of what children do online is what I refer to as "cyber-mischief." They are just trying to have fun, and frequently don't realize the impact of their messages. They are caught up in their "instinctual impulses" and hide behind the mask of the Internet, thinking there is safety and protection in the fact that, after all, it's only words and pictures. It's not like they struck, stabbed, or shot somebody. If they make fun of other students in school, or a teacher or administrator, what's the harm?

Besides, they're not misbehaving in school. Most students who use the Internet to, for example, create web pages that ridicule, defame, or threaten teachers and administrators or other students are using their home computers. They build a web page, upload it to a server, and there is no contact with the school. No problem, right?

Not necessarily. In Pennsylvania recently, a student built a web page that showed one of his teachers morphing into Hitler. He showed her severed head in a pool of blood. He suggested that he would like to hire a "hit man" to kill her. It was basically profane juvenile braggadocio, just blowing off steam, a form of pleasure fulfillment. Unfortunately for the student and his parents, the teacher suffered a breakdown, took a leave of absence and filed a lawsuit. A jury awarded her half a million dollars in damages.

Most cases go the other way. In another case, also out of Pennsylvania, a student posted hostile and profane “rap” lyrics on a website. The school imposed discipline and suspended him. Since he had created the web page at home and there was no connection with the school, he and his parents sued the school district, alleging a violation of his First Amendment rights. The legal process ended when the school district voluntarily paid \$90,000 to settle the case.

Here is the difference between the two cases: in the first case, the court found that there was a substantial disruption of the educational process, because the teacher took a leave of absence and the district had to replace her with a substitute teacher. In the second case, the district was not able to prove substantial disruption.

Litigation over hostile websites and other forms of cyber-mischief is becoming more common. School administrators are not sure what to do when they encounter cyber-mischief that does not have a direct connection to the school. If they discipline a student over the content of a web page created by the student at home and uploaded to a remote Internet server, they might be overreaching and violating the student’s First Amendment rights. If they do nothing, they might face disruption at school and erosion of discipline.

That is why the legislature has to step in. Arizona needs a cyber-bullying law requiring public schools to adopt a cyber-bullying prevention policy that:

- Specifies what kinds of cyber-mischief violate the policy.
- Requires that students be instructed in the proper use of the Internet.
- Requires that schools create a contract for the use of school computers and access to the Internet.
- Includes language that defines what constitutes “substantial disruption” of the educational environment.
- Includes a disclaimer for parents that, even if the misbehavior is beyond the reach of school discipline policies, the school has the right to enforce terms of service agreements for web sites and cell phone companies.
- Requires that, even if there is no basis for a suspension, expulsion, or removal to another placement, the parents will be placed on notice about the offensive Internet behavior of their child and asked to take remedial action.

The legislature is designed to articulate public policy, not the courts. When the legislature leaves a policy vacuum, the courts rush to fill it. What often results is a tangle of inconsistent judicial opinions that provides more confusion than direction. That is the case with cyber-bullying, where school administrators are not sure how to impose discipline without triggering a lawsuit, and parents feel that the administrators are encroaching on their role.

This is not necessary. Arizona needs a law against cyber-bullying. Now.

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