

A Brief History Of The Battle Against Cyberbullying

To understand the dynamics of legislative and judicial discourse on cyberbullying, one must first understand the tedious balance between maintaining a safe learning environment and maintaining the free speech rights of individuals.

Case law indicates schools may be found liable for damages if a victim can prove that:

- The school environment had been altered for them
- Any staff member knew or should have known about the harassment
- There was a failure to act
- There was deliberate indifference

However, students are protected by the First Amendment and do not forfeit their constitutional right to free speech and expression while on campus, much less in the home, where cyberbullying is often carried out. School officials may discipline a student for off-campus speech if they present factual evidence which forecasts substantial disruption of, or interference with, school activities. This principle, established by United States Supreme Court decision in 1969, is known as “The Tinker Standard.”

Here are a few other laws that have been instrumental in the fight against cyberbullying:

CIPA, or the Children’s Internet Protection Act of 2000

- Required schools and libraries receiving E-rate funds to implement “filtering,” a technology protection measure which blocks visual depictions of obscenity, child pornography or anything else harmful to minors.

- Established an Acceptable Use Policy (AUP) and an NCIPA provision to address access to inappropriate material, security when using Web 2.0 tools, network hacking, protection of personal information, as well as use and dissemination.

Oregon HB 2637 passed into law in 2007

- State officials added cyberbullying to a law that called for school districts to develop anti-bullying policies, establish procedures to report such behavior, and provide an outline of consequences. The law defines bullying as any act that “substantially interferes” with a student’s education and takes place “on or immediately adjacent to school grounds” or at school-sponsored activities.

Washington SB 5288

- Provides that, by August 1, 2008, each school district shall amend its harassment, intimidation and bullying prevention policy to include a section addressing acts of bullying, harassment or intimidation that are conducted via electronic means. The policy shall include a requirement that materials be made available to educate parents and students about the seriousness of cyberbullying. Provides that the material shall include information on responsible and safe Internet use as well as what options are available if a student is being bullied via electronic means, including but not limited to, reporting threats to local police and when to involve school officials, the Internet service provider or phone service provider. If a school district has Internet use policies, the act of bullying, harassing, or intimidating another student via online means shall be included as a prohibited act and be subject to disciplinary action.

Minnesota SB 646

- Each school board shall adopt a written policy regarding intimidation and bullying in all forms, including, but not limited to, electronic forms and forms involving Internet use.

All across America, states legislatures are adopting policies similar to the ones implemented in Washington, Oregon and Minnesota. From PTA meetings to the steps of the nation's Capitol, heavy-hitting lawmakers are lining up behind proposals and bills that address cyberbullying as the serious risk it has become.

Elsewhere, online communities have been dedicated to promote Internet safety and combat cyberbullying, as well as other inappropriate behaviors on the Web. Sites like [NetSmartz](#) and [WebWiseKids](#) offer online safety tips. Telecommunications provider Qwest Communications created an entirely separate site, www.incredibleinternet.com, to educate parents about the technology-driven world their children already know how to navigate.

We are winning the battle. But there is still work to be done.

