



CYBERBULLYING:

WHEN BULLYING LEAVES SCHOOL GROUNDS

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Cyberbullying, like more familiar forms of bullying, is repeated aggressive or negative behavior intended to inflict mental, physical or emotional harm. The only difference between the two is the medium. Rather than face-to-face confrontations, cyberbullying happens across a range of electronic media. Moreover, because cyberbullying takes place in the 24/7 world of social networking, victims often feel that they have nowhere to hide, even in their own homes.

Bullying, especially cyberbullying, presents a significant risk management concern for school districts across the U.S. The National Center for Education Statistics reports that more than 7 million U.S. middle school and high school students reported being bullied at school during the 2008-2009 school year—and more than 1.5 million reported they were cyberbullied, either at school or off school property. To make matters worse, estimates show that only 33 percent of all bullying incidents are reported.

Left unchecked, bullying of any type can escalate into criminal harassment and physical violence. Furthermore, persistent bullying and cyberbullying is increasingly linked to suicide and depression. Not only can bullying lead to tragedy, but school districts and risk managers may find themselves vulnerable when questions about liability arise.

RECENT CYBERBULLYING CASES

A case filed last February in New Jersey Superior Court, Sussex County, highlights the risk that schools face with cyberbullying. The parents of a female student filed a lawsuit against High Point Regional High School alleging that the school failed to stop the harassment, intimidation and cyberbullying that was carried out over a three-year period by other students. The lawsuit claims that school officials were told about the verbal abuse and provided copies of derogatory Facebook postings but never took any action to stop it. The suit seeks \$1 million from the school district along with another \$1 million from other student defendants. Considering that New Jersey has what is perceived by many to be the nation's toughest Anti-Bullying Bill of Rights law, the case is being closely watched by both legal experts and state school board officials.

The New Jersey Anti-Bullying Bill of Rights law enacted last year was propelled in the aftermath of the Tyler Clementi tragedy. Tyler, an 18-year-old New Jersey University student committed suicide after a dorm room encounter with another man was video streamed over the Internet without his knowledge. The roommate, Dharun Ravi, and a fellow hall mate were charged with invasion of privacy for setting up a Webcam in his dorm room and sharing the video with other students. Dharun Ravi, who refused a plea deal, was convicted earlier this year on multiple counts of invasion of privacy and bias intimidation. As a result of the guilty verdict, five states—Delaware, Indiana, Kentucky, Maine and New York—want to enact cyberbullying laws that stiffen the penalties for electronic intimidation and harassment. A bill introduced in Indiana would

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actually give schools more authority to punish students for cyberbullying activities that occur off school grounds.

WHO OWNS THE RISK IN CYBERBULLYING SITUATIONS?

As of 2011, at least 48 states have enacted anti-bullying laws, and 36 states have cyberbullying laws already in place. Fewer than half of the laws, however, offer any real guidance about whether schools may intervene in cyberbullying situations. Clearly, this area remains largely uncharted and untested. Not only do laws vary by state, but few courts have vigorously assigned criminal responsibility to those involved in bullying and cyberbullying incidents. The legal system, however, has proven much more likely to assign financial responsibility in civil suits—both to individuals and to school districts.

The primary result of state anti-bullying laws is that risk has been passed from governmental entities to schools and school districts. Most of the laws on the books today require school districts to police bullying and cyberbullying.

As with other liability issues, you will be asked to answer three key questions, should a cyberbullying issue occur in your school district:

- What did you know?
- When did you know about it?
- What did you do about it?

THE SCHOOL'S ROLE

Districts are responsible for student safety when at school, on school grounds or participating in a school-sponsored event. Although cyberbullying often happens at home or in other off-campus settings, bullying often carries over or escalates at school since this is the primary group setting for the student population.

Beyond protecting the students' safety, everyone benefits from proactive bullying prevention. Growing public awareness of cyberbullying has increased recognition of the seriousness of the problem of bullying and created a huge opportunity. Schools have the opportunity to take the lead in proactively addressing not only the risks involved, but the issue itself.

POLICY VS. PROGRAM

No statistics exist indicating that policies banning bullying or cyberbullying make a difference in student behavior. Research, however, does suggest that when a comprehensive anti-bullying program is implemented in a school, incidents of bullying and cyberbullying decrease by as much as 20 percent.

An effective anti-bullying program will require:

- Detailed policies
- Questionnaires/surveys
- Training for faculty, staff and students
- Reporting mechanisms
- Investigation process
- Ongoing vigilance

While targeting one or two components would be better than doing nothing, any school or district adopting only a partial program may still be open to potential liability. When districts commit to a comprehensive anti-cyberbullying program, they put themselves in a stronger position in the event of a lawsuit. Perhaps more importantly, a comprehensive anti-bullying campaign increases the likelihood of preventing bullying and cyberbullying in the future.

A CYBERBULLYING PROGRAM: STEP-BY-STEP

Enacting a comprehensive program is not difficult if you break it down into components. Following is a description

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of how to develop and implement each step of the process, from beginning to end.

Policy: Establishing a detailed policy alone will not prevent cyberbullying; a policy, however, can set expectations. Be sure that your policy is in compliance with state laws, and verify this on an annual basis.

Remember that buy-in matters. Ask faculty, administrators, students and parents for input. When your policy is finalized, make it available to all stakeholders using various media, post it on school and district Web sites, notify all parties in writing, host meetings with parent and student organizations and take advantage of any other creative ways to spread the word.

Questionnaire/Survey: Find out what students know and don't know about cyberbullying to establish a baseline. Then measure the same general information at least annually. (Variations and enhancements to the questionnaire can be made, but continue baseline measurement for comparisons.)

Ideally, the anti-bullying/cyberbullying program's training and awareness efforts will improve the students' knowledge over time. Survey results can provide evidence of your program's success and documentation in case of liability claims.

Training: Anyone who might potentially be involved in cyberbullying incidents—students, faculty and staff, administrators and parents—should receive training that helps them identify bullying and cyberbullying and be aware of the district policy and consequences. Appointing district experts—often school counselors or other trained faculty members—to serve as references for questions from faculty, students and parents can provide those in need with an obvious place to go for help.

Finally, proof of training is essential from a risk management standpoint. Proper documentation and record-keeping has to be a key element in the process.

Reporting mechanism: Make reporting cyberbullying as simple, anonymous and safe as possible for both victims and bystanders.

If possible, post "bully boxes" in areas of the school where students can drop in information without being seen. You can also post information about nationwide anti-

bullying hot lines or provide an online reporting system that can be accessed anonymously.

A key component of any effective reporting system is mandatory reporting for faculty and staff. In several well-known bullying and cyberbullying incidents, some believe that lives may have been saved if reporting mechanisms had been in place.

Investigations: Once a school becomes aware of a cyberbullying incident, action must be taken according to a mandatory investigation policy, similar to any other situation involving harassment.

To the best of their capabilities, school officials should establish who was involved, when the incident took place and where. Then all parties—bullied student, alleged bully, known bystanders and parents—must be notified and interviewed. These initial interviews should seek a specific, objective description of what happened. District policy should specify consequences for different levels of bullying behaviors, so there should be no surprises regarding consequences for any of the parties involved.

Be aware that mediation may not be a useful tool when addressing either type of bullying. Mediation is valuable in situations where there is a level playing field. Bullies and their victims do not operate on a level playing field.

Vigilance: The concept of "BBB"—bully, bullied and bystander—is at the center of many anti-bullying programs. By placing emphasis on the bystander, witnesses can be empowered to report abuse and prevent escalation. If that individual with information about a cyberbullying incident does not feel threatened by the system, he or she will be more likely to pass this information on to a trusted adult at home or at school.

WHY IT MATTERS

Statistics suggest that over 1.5 million students live in fear because of cyberbullying. Although the plan outlined above likely cannot stop all bullying situations, taking these or similar steps may both limit the extent of cyberbullying in your schools and lessen your districts' exposure to risk. Taking proactive steps to curb cyberbullying is not only the fiscally responsible thing to do, but it is the right thing to do. When students are protected from the threats of bullying and cyberbullying, everybody wins. ■

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