

Consultant Support Services

Instructional Support • Onondaga-Cortland-Madison BOCES

Cyberbullying and What It Means for You

In an effort to make your lives a little easier, I will summarize what you need to know about Cyberbullying - this part of the Dignity Act which went into effect July 1, 2013. The information in this newsletter is summarized from the NYSED website.

I have also taken information from Governour_Cuomo_Signs_Legislation.mht

Please feel free to disseminate this newsletter to any and all staff you feel would benefit from having this information.



What are school districts legally required to do with regards to cyberbullying?

The purpose of the Dignity Act remains the same as before. The addition of cyberbullying extends a school's responsibility to protect its students into the community whenever necessary. Included in the amendments are also provisions for training requirements for staff.

According to the Dignity Act, school districts are required to:

- Act when cyberbullying occurs, on or off campus, and has, or would have, the effect of unreasonably and substantially interfering with a student's educational performance, opportunities or benefits, or mental, physical, or emotional well-being; cause physical injury or emotional harm; or causes the student to fear for his physical safety.
- Ensure proper protocols are in place for dealing with cyberbullying. These protocols are for prompt action to:
- Assign school staff to receive and investigate reports
- Report and investigate reports. An oral report must be made not later than one school day to the designated person, and a written report of the incident must follow the oral report not later than two school days.
- End the harassment, bullying, or discrimination and any hostile environment that exists.
- Prevent the recurrence of an incident and retaliation against the person who reports as well as creating a more positive school climate which ensures the safety of all students.
- Coordination with law enforcement when appropriate, e.g., promptly notifying local law enforcement if the behavior is believed to be of a criminal nature.
- Development of bullying prevention strategy
- Notice to all school community members of school policies

The amendment sets training requirements for existing school employees, as well as pre-service teachers, coaches and administrators applying for certification, on the identification and mitigation of harassment, bullying, cyberbullying, and discrimination.

How does the law define "cyberbullying?"

Cyberbullying is deliberate, threatening harassment that may include, among other things, the use, both on and off school property, of electronic communication, such as e-mail, instant messaging, blogs, chat rooms, pagers, cell phones, gaming systems and social media websites. For cyberbullying that occurs OFF campus to be included, it must create or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

Examples of cyberbullying include, but are not limited to:

- Sending hurtful, rude, or mean text messages or e-mails to others.
- Spreading rumors or lies about others via text message, e-mail or social networking sites.
- Creating or sharing pictures, websites, videos or social media profiles, including fake profiles that embarrass, humiliate, or make fun of others.

Cyberbullying is different from face-to-face bullying because messages, videos, pictures and/or images can, among other things, be:

- Sent 24 hours a day, 7 days a week, 365 days a year.
- Distributed quickly to a very wide audience.
- Sent anonymously.

As with all bullying, an imbalance of power is usually involved, but may be more difficult to describe than in cases of typical bullying. With cyberbullying, a more powerful individual may have proficiency with technology, or possession of some information or content that can be used to harm someone else. The most common forms of cyberbullying include: harassment, flaming, cyber stalking, denigration, impersonation, sexting, happy slapping, outing, and trickery.

The following terms may need some definition so that key adults can recognize them and understand language used by students:

- **Flaming:** aka bashing, is hostile and insulting interaction between Internet users, often involving profanity.
- **Cyber stalking:** using the Internet or other electronic means to stalk or harass an individual, group of individuals, or organization. Many stalkers are motivated by a desire to control their victims
- **Sexting:** sending sexually explicit messages and/or photographs, primarily between mobile phones.
- **Happy Slapping:** aka "bitch slapping" is a fad originating in the UK in which one or more persons attack a victim for the purpose of recording the assault (commonly with a camera or a smartphone).
- **Outing:** the act of disclosing a gay, lesbian, bisexual, or transgender (LGBT) person's sexual orientation or gender identity without that person's consent.

Are students' rights to freedom of speech inhibited... by the Dignity Act?

Well, yes and no! Freedom comes with responsibility. There have been cases where students have done something off campus for which they have been punished, and the courts upheld the school districts' decision. In *Tinker v. Des Moines Indep. Community Sch. Dist.* (393 US 503 [1969]), the U.S. Supreme Court stated that school administrators may prohibit student expression where it "materially and substantially disrupt[s] the work and discipline of the school".

The Second Circuit Court of Appeals has found that school administrators were not prevented from disqualifying a student from a school election after she posted a vulgar message about the cancellation of a school event on an internet blog. The Second Circuit stated that "a student may be disciplined for expressive conduct, even conduct occurring off school grounds, when this conduct 'would foreseeably create a risk of substantial disruption within the school environment,' at least when it was similarly foreseeable that the off-campus expression might also reach campus" (Doninger I, 527 F3d 41, 48).

It should also be noted that, in 2011, the Fourth Circuit Court of Appeals upheld the suspension of a student who created and posted from her home computer a webpage ridiculing another student. The Fourth Circuit stated that "the language of *Tinker* supports the conclusion that public schools have a 'compelling interest' in regulating speech that interferes with or disrupts the work and discipline of the school, including discipline for student harassment and bullying" (*Kowalski v. Berkeley County Schools, et al.*, 652 F3d at 572).

Accordingly, school districts in New York State may take action when students engage in off-campus conduct that would foreseeably create a risk of substantial disruption within the school and should consider doing so, as part of a comprehensive approach to address harassment and cyberbullying that includes interventions other than out-of-school suspension.

Cyberbullying is deliberate, threatening harassment that may include, among other things, the use, both on and off school property, of electronic communication, such as e-mail, instant messaging, blogs, chat rooms, pagers, cell phones, gaming systems and social media websites.

As part of your comprehensive approach...

It's no easy task to keep up with technology in this world. It's even more difficult to keep up with our students who seem to ride the wave of technology with little or no difficulty. Here are some tips for your comprehensive anti-cyberbullying efforts:

- Explore your current bullying policies related to internet usage and make necessary modifications to reflect the new cyberbullying requirements under the Dignity Act.
- Work with your administrators, Board of Education, IT staff, teachers, parents, and students to develop new policies for dealing with cyberbullying. These policies ought to be specific with respect to infractions and consequences.
- The school attorney shall review policies and codes of conduct to ensure that the statements are legally defensible.
- Work with IT and support staff so that they can assist teachers and librarians to minimize in-school risks.
- Disseminate the new policies to students, families, and all staff.
- Offer training on cyberbullying for educators, staff, and administrators.
- Talk to students about cyberbullying at the beginning of each year when the Code of Conduct is reviewed; what it is, how it hurts, what will happen if someone is found to be engaging in this behavior. Enlist their support in making the school environment a positive one.
- Have a survey in which students can tell you what is happening regarding cyberbullying. Ensure anonymity.
- Have procedures in place in anticipation of a cyberbullying incident. Make it easy for a student or parent to report incidents of cyberbullying. Take ALL reports seriously.
- Assist parents in dealing with incidents which do not fall under the purview of the school. For example, keep all evidence, contact police, contact Facebook or other web environments where the problem occurred. Assure parents that you will be watching for additional problems within the school setting that their child may be having.

For more information and assistance as you prepare your policies and procedures:

- www.stopbullying.gov/topics/cyberbullying/
- www.cyberbullying.us