

School Safety

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The issues of school safety are continuously an area of thought, concern and practice for school leaders across the country. Community and school stakeholders are concerned about student's safety in schools, and recent events across our country have created circumstances of concern. There is agreement among educators, parents and the public that learning must occur within a safe learning environment. (Losinski, Katsiuanis, Ryan and Baughan, 2014).

Schools are micro societies, reflecting the tone of what is occurring at the local, state and national levels. Events that involve discussion about hate crimes; immigration debates; border walls; neo-Nazi's and white supremacists; military and gender identification all impact how students in schools respond to one other in a positive or negative manner.

These responses can emerge as bullying of others, intolerance of others, students choosing sides of tolerance and support, all of which has an impact on school climate and safety. Violent deaths, sexual assault, drugs, theft, hate crimes and bullying have negatively impacted school safety. In 2015, 21% of children between the ages of 12-to 18 reported being bullying in school. (Musu-Gilete, Zhang, Wang and Jizhi Zhang, and Oudekerk, 2016).

Bullying is defined as "any unwanted aggressive behaviors by another youth or group of youths who are not siblings or current dating partners that involves an observed or perceived power imbalance and is repeated multiple times or is highly likely to be repeated. Bullying may inflict harm or distress on the targeted youth including physical, psychological, social or educational harm." (Centers for Disease Control, 2014) Bullying can occur at school, school events, on school buses, through the Internet and cyber bullying. (Gladden, Vivolo-Kantor, Hamburger, and Lumpkin, 2014). Hinduja and Patchin (2014) defined cyber bullying as the, "Willful and repeated harm inflicted through the use of computers, cell phones and other electronic devices." Page 11

School leaders must be familiar with their state laws, school district policies that align with those laws, and district code of conducts documents based on those laws, regulations and policies. The U.S. Department of Education has identified key elements that should be included in state legislation. Most state laws identify the purpose and scope of the statute, prohibited bullying conduct, define bullying behavior, adoption of school district policies and establish procedures for reporting, investigation and responding to bullying.

For example, the Florida Anti- Bullying Statue includes definitions of bullying and harassment and mandates each school district must adopt and review a bullying and harassment policy every three years. The school district policy must articulate procedures for receiving reports of bullying activity, methods of investigating activity, notification to parents; counseling referrals and referral to local agencies in the event criminal charges are required.

Most school district policies include a definition of bullying; articulate what bullying behavior is and how to assess the alleged bullying or harassment behavior. Included in the policy is a determination as to where the behavior occurred, was the behavior on campus, during a school activity, through the Internet or through the utilization of school property. Procedures for reporting allegations, how to conduct investigations, reporting regulations and the consequences for participating in bullying or harassment behavior are included in school districts policy statements. School policies also include consequences for reporting false allegations of bullying behavior.

District policies are applicable to all students and employees. Schools annual Code of Conduct communicates the school's bullying and harassment policy. School boards approve these policies annually.

School leaders are responsible for the well-being of students attending educational institutions. Administrators face many challenges when ensuring a safe learning environment for students, staff, and faculty. To assist in this task, administrators must be proficient in federal and state anti-bullying statutes and their own school districts to effectively apply and enforce the provisions of these guidelines. Failure to do so will not only result in civil lawsuits but also may lead to the unfortunate tragic death of a student.

Legal Considerations

It is imperative that school leaders at the building and district level be familiar with and understands their school districts bullying and harassment policies. The first question in a civil court procedure from an effective attorney would be in regards to the administrator's knowledge and awareness of the school district bullying and harassment policy.

School administrators and school districts (Board of Education) must be proactive in addressing issues of bullying, harassment and cyber bullying. Administrators must act within the constraints of Federal and State laws and district policies. Administrators must ask themselves the following questions before taking discipline action. Consideration of whether or not the behavior of student(s) harmful, disruptive, and/or violates a student's civil rights must be determined. Where the behavior occurred (on or off-campus); how federal and state laws apply to the situation and what policies regarding bullying, cyber bullying, harassment and consequences described in the student code of conduct must all be part of the administrators thoughtful actions.

In *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969) the courts ruled the student's behavior or comments must invade the rights of others or cause substantial disruption in school activities. *Tinker v. Des Moines Independent Community School District* (1969) decision protected students and teachers First Amendment Right to free speech. When a school takes proactive actions against a student, school leaders must ensure that First Amendment rights are addressed appropriately (Beale and Hall, 2007).

In response to different outcomes in two "indistinguishable cases" of student off campus online postings on social media, the 3rd U.S Court of Appeals held an en banc hearing to review facts of the cases and offer clarification on the issues. Following the en banc hearing the courts reaffirmed the activity challenged must cause substantial disruption to student functions. (Lomonte, 2011).

Hinduja and Patchim (2015) emphasize courts will protect students First Amendment rights however administrators must act when student's expressions "substantially or materially disrupt learning; interfere with the educational process or school discipline; utilize school on technology to harass or threaten other students or infringes on their civil rights."page127

The Department of Education (DOE) (2012) issued a letter reminding educators that when action is taken regarding anti-bullying behavior, educators should also consider constitutional rights and laws that prohibit discrimination and harassment based on race, religion, color, or national origin. Title VI the Civil Rights Act of 1964 prohibits discrimination based on race, color or national origin, Title IX, the Educational Amendment of 1972 addresses discrimination based on gender and Title II, the Americans with Disability Act of 1990 prohibits discrimination based on disabilities.

The Department of Education advised administrators that they have a duty to act, investigate and eliminate any hostile harassment environment. Administrators must have a monitoring system in place to insure that the hostile environment has ended and does not reoccur after the implementation of corrective measures. Failure to monitor or implement significant and effective corrective measures may result in the continuation of the hostile environment and expose the school to civil law suits.

In *Zeno v. Pine Plains Central School District*, 10-3604-cv. 2012, student Anthony Zeno was subject to 3 ½ years of racial discrimination and a hostile environment. Zeno was a target of students' racial bias based on the fact Zeno was biracial. Over the course of three years, the school suspended students involved in the bullying activity however failed to implement "non- disciplinary remedial action" to address the racial discrimination, a violation of Zeno's Federal Civil Rights. Zeno was awarded one million dollars.

Police Authorities as Partners

Local police authorities collaborate with school leaders in planning proactive and reactive responses to threats to school safety. These partnerships assist the school community, as ongoing communication between authorities and school leaders assist both in keeping students and in adults safe in schools.

For example, protocols for active shooter, guns on campus, have changed from recommended protocols 10 years ago. The communication between police authorities and school leaders is critically important, so that as protocols change, the superintendent is aware and can recommend policy changes to the school board for adoption.

Students may be involved with other students in the community after school hours and/or on weekends. When police authorities have positive relationships with school leaders, information shared can prevent issues from occurring in schools as a continuance of community issue. The reverse is also helpful, when school leaders inform police of confrontations in school between students that may spill into the community after school hours.

Summary

School safety is a concern for students, parents, staff, faculty, administrators and community stakeholders. Events in the media have a profound impact on issues that contribute to events in schools, making school personnel jobs more difficult, related to protecting the rights of all and managing a safe school environment. Laws, regulations and policies must be clearly articulated and communicated so that school leaders have the necessary tools to legally support students from bullying, and effectively provide appropriate consequences for students that violate the rights of others

References

- Beale, A., & Hall, K. (2007). Cyberbullying: What School Administrators (And Parents) Can Do. *The Clearing House*, 81(1), p. 8-12. Retrieved from <http://www.jstor.org/stable/3018994>
- Gladden, R.M., Vivolo-Kantor, A.M., Hamburger, M.E., & Lumpkin, C.D. *Bullying Surveillance Among Youths: Uniform Definitions for Public Health and Recommended Data Elements, Version 1.0*. Atlanta, GA; National Center for Injury Prevention and Control, Centers for Disease Control and Prevention and U.S. Department of Education; 2014.
- Halligan, J. (2017). Ryan's Story website. Retrieved from <http://ryanpatrickhalligan.org/presentation.htm>
- Hinduja, S. & Patchin, J., *Bullying Beyond the Schoolyard: Preventing and Responding to Cyberbullying*. 2015. Corwin Press, Sage Publications, California.
- LoMonte, F., June 16, 2011, Layshock, JS and MySpace Justice- Third Circuit takes a half-step toward clarifying school authority over online speech. Student Press Law Center website. Retrieved from <http://www.splc.org/blog/splc/2011/06/layshock-j-s-myspace-justice-third-circuit-takes-a-half-step-toward-clarifying-school-authority-over-online-speech>.
- Musu-Gillette, L., Zhang, A., Wang, K., Zhang, J., and Oudekerk, B.A. (2017). *Indicators of School Crime and Safety: 2016* (NCES 2017-064/NCJ 250650). National Center for Education Statistics, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice. Washington, DC. Retrieved from <https://nces.ed.gov/pubs2017/2017063.pdf>
- Education Week blog post. Retrieved from http://blogs.edweek.org/edweek/reimaging/2013/08/whats_the_goal_of_edu.html.
- Tinker v. Des Moines Independent. School District. 503. 393 U.S. 503 (1969).
- US Department of Education. "Dear Colleague Letter Harassment and Bullying." US Department of Education, Office for Civil Rights (October 26, 2010). Retrieved from <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html>
- Zeno v. Pine Plains Central School District. 10-3604-cv (C.A.2, Dec.. 3, 2012).
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