



April 25, 2011

## BULLYING AND HARRASSMENT IN SCHOOLS

Dear Superintendent,

This letter includes important information from the ACLU of Ohio regarding safety at schools. We hope you will review it carefully and use these facts to create a positive learning environment for all students.

Every year, students from around Ohio report being bullied or harassed at school. Oftentimes, incidents of bullying or harassment can be prevented by the implementation of proactive educational initiatives that teach children respect for their peers and the consequences of their actions. Schools should take steps to stop bullying or harassment when it is reported by a student, parent, or other parties.

Bullying or harassment can take a variety of different forms: name-calling, use of derogatory slurs, threats, sexual intimidation, and physical violence are a few examples.

According to the National Crime Prevention Council:

- Young people say that bullying is one of the biggest problems they face.
- 52 percent of students report seeing bullying on at least a weekly basis.
- Every day 160,000 children miss school because they're afraid of being bullied.
- Bullying negatively affects the victims and the bullies as well as the children who witness bullying and the entire school environment.

### **WHAT THE LAW SAYS:**

The U.S. Supreme Court has ruled that schools may be liable for failing to address student-on-student harassment in school. *Davis v. Monroe County Board of Educ.*, 526 U.S. 629 (1999). In addition, there are federal and state laws that prohibit discrimination and harassment based on race, gender, and disability.

Ohio state law requires public school districts to have a policy on how the school will address bullying and harassment.

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## **THE ACLU OF OHIO'S POSITION:**

Schools are responsible for maintaining a safe learning environment for all students. Once schools become aware of bullying or harassment, the law requires that they take action to address the problem. Unfortunately, many schools view discipline as the only means to address bullying. Due to "zero tolerance" policies, many schools discipline all students involved in confrontations, including both the bullies and the victims. Schools should avoid taking steps that would criminalize protected (albeit unpleasant) speech. A more effective solution would be to support programs that educate and inform children, parents, and educators about effective methods of preventing and responding to bullying.

## **CYBER-BULLYING:**

We understand that some schools are struggling with so-called "cyber-bullying." Technology has changed dramatically in recent years, most young people have access to a cell phone, send text messages and email. Many students frequent Facebook, Twitter, Flickr, YouTube, and many more. While these technologies present new ways to communicate, they do not inherently change behaviors associated with intimidation and harassment. In other words, the focus should be on the bullying and harassing behavior and not on the means by which it is communicated.

## **OUT OF SCHOOL SPEECH:**

Schools may be tempted to exceed their legal authority in order to discipline students for behavior that occurs outside of school or that may be protected speech. This may be especially tempting when technology is involved. However, the law establishes clear boundaries as to what conduct is within the school's disciplinary reach.

- Schools may place restrictions on cell phone and computer usage during school time, on school property, and utilizing school resources. For example, a school can reasonably require that cell phones be turned off during class, but may not randomly search through a cell phone.
- Schools may discipline students for speech that disrupts school. Courts have required that the speech substantially interferes with school activity to justify discipline. Fear that speech *may* be disruptive, speech that leads to discussion, heated debate, or speech that a school official dislikes is not justification for stifling student speech.
- Generally, schools are not permitted to discipline students for online activity or speech that occurs entirely outside of the school setting. The only exception is for "true threats" (a threat of violence directed to a named person) made against someone else in the school; when this occurs, the school may discipline the student making the threat according to the school's policy or state or local law.

## **PROACTIVE BULLYING PLANS:**

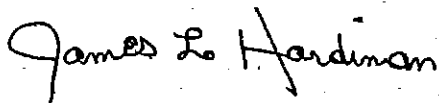
Schools should develop a comprehensive approach to address bullying and harassment. Discipline can and should be part of the plan, but it should not be the schools' only response to bullying behavior. Schools should compliment disciplinary policies with other methods to eliminate bullying.

- School staff should be provided with training as to how to identify bullying behavior, how to effectively intervene when harassment is taking place, and strategies to prevent continued bullying.
- Schools are required by state law to have policies in place that set forth a process to report, investigate, and address bullying. Schools should make sure that staff, students and parents are aware of the process and encouraged to follow the process. School administrators should do their part to thoroughly investigate and respond to reports of bullying or harassment.


- Schools should take advantage of the full range of options to combat the growing bullying epidemic, including but not limited to:
  - Engage parents by letting them know if a student is bullying or being bullied, so that parents can address any problems in the home.
  - Integrate instructions for students on what constitutes bullying, why it is wrong, and what action they should take if they encounter someone being bullied.
  - Have students involved in bullying meet with the school's counselor or psychologist to address the bullying.

We sincerely hope you will take these suggestions into consideration when addressing bullying concerns as we undoubtedly want the safest learning environment for Ohio's children. If the ACLU of Ohio can be of any assistance, please feel free to call or email.

Best,



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#### Additional Resources:

There is a wealth of resources available to Ohio families and educators as to how to address bullying and harassment. Following are a few suggestions to get you started.

- ACLU of Ohio Student Know Your Rights Guide  
<http://acluohio.org/sga/StudentRights/StudentRightsGuide.pdf>
- Ohio Department of Education's Bullying Prevention Resources,  
<http://education.ohio.gov/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=431&ContentID=29364&Content=86303>
- National Crime Prevention Council's resources on bullying for parents, kids, and schools (including lesson plans), <http://www.ncpc.org/topics/bullying>
- Stop Bullying Now (one page with resources for younger kids and another for adults), [www.stopbullyingnow.hrsa.gov](http://www.stopbullyingnow.hrsa.gov)
- International Bullying Prevention Association, <http://www.stopbullyingworld.org/>
- The International Institute for Restorative Practices offers training on responding to bullying with restorative practices, [http://www.iirp.org/training\\_n\\_consulting.php](http://www.iirp.org/training_n_consulting.php)
- The Olweus Bullying Prevention Program, training and comprehensive school programs for elementary and middle school age students, <http://www.clemson.edu/olweus/>
- Teens Against Bullying (resources directed toward teens), [www.pacerteensagainstbullying.org](http://www.pacerteensagainstbullying.org)
- The Ohio Attorney General offers a list of resources on cyberbullying and online safety, <http://www.ohioattorneygeneral.gov/Publications> (scroll down to "For Schools" section)