

Cyberbullying: where the line of free speech is drawn

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Sitting behind a computer, typing away, many people feel anonymous. It is as though the world is at one's fingertips. As one presses " post," consequences aren't considered. Besides, the First Amendment protects our right to speak freely.

However, in the case of high school students, the digital age seems to be constricting their voices. In a debate that has lasted half a century, free speech for high school students is a major concern. The digital age provides students, with a multitude of platforms to express themselves, as well as to degrade others. The issue is accompanied by the question, where do schools play a role in preventing degradation? A student may speak freely outside of school, but if the post is online, should schools have access? With cyberbullying and suicide on the rise, society faces this huge decision. However, the answer is simple.

School officials shouldn't have access to private posts of students outside the school day without involving probable cause and police. If cyberbullying is discovered, school officials should take action and handle the situation in school. Part of the foundation of the American government free speech, remains one of the most important values in American society. Millions of people immigrate to the United States for the opportunity to speak freely, a right that citizens take pride in. Without free speech, the democratic government would not exist.

The digital age should not limit this freedom. Although school teachers and officials are handed much responsibility in caring for students and despite being mandated reporters, administrators and teachers have no right to

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invade the privacy of students even with suspicion of negative online activity outside of school. School personnel must work with law enforcement if a need for action is perceived. Mary Beth Tinker, the student behind the Tinker Standard, a court ruling that is the foundation of educational free-speech case decisions, explains, “ If we don’t encourage young people to use their First Amendment rights, our society is deprived of their creativity, energy, and new ideas. This is a huge loss, and also a human rights abuse” (Wheeler). A violation of student free-speech rights occurred in a 2012 case in Minnesota.

As articles in The Atlantic and the Student Law Press discuss, a student was forced to turn her Facebook password over to her school administration, with police present, after a parent complaint and after the student posted a comment on Facebook in which she complained about a hall monitor. The student’s post was private, but a screenshot was obtained by the school principal. The parent complaint to the school regarded alleged Facebook conversations about sex between their son and the student in question. As a result of these posts, the student was forced to submit her passwords to the principal while being threatened with detention, suspension, and other consequences and lawsuit was filed against the school by the student and her family. The student claimed the school was infringing on her right to free-speech.

Teresa Nelson, director of the Minnesota ACLU, has said that the school’s actions were unjust and part of an unfortunately common trend with high school students’ free speech today. In this situation, the student was using

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the internet as a medium for expression. Her posts were not dangerous, occurred outside of school, and were private. Therefore, the school shouldn't have accessed the information. Free speech is the core of American culture, and a school system is breaching the contract between students and their rights when it interferes with harmless comments made outside of school grounds.

The Tinker Standard was established in 1965 as a means of protecting these rights. This standard resulted after Mary Beth Tinker wore an armband to school as a protest against the Vietnam War. School officials forbade her to do this, and the case went to court. Ultimately, the ruling determined the armbands were appropriate. The Tinker Standard stated that school officials could intervene with students' actions if the school could cite substantial disturbance to the school environment as a result of the actions.

Although the standard was established in a time when internet forums did not exist, the same concept remains. Online speech is equivalent to any other speech outside of school, and unless posts are made public, school officials do not have the right to freely access the voices of students. If concerns regarding students' online posts are sent to schools, or if officials have suspicions, police must become involved. Only with probable cause may students' private posts be searched. However, a system must be created for fast investigation to stop cyberbullying. The judicial system, a slow process, cannot be left with the responsibility of combating cyberbullying, one of the leading problems among United States teenagers.

In the *Kowalski v. Berkeley County Schools* case (2011), a student who was harassed chose to leave the school because she didn't feel safe there. A case like this requires a rapid resolution, as the following incidents show: There was thirteen-year-old Megan Meier, who committed suicide after being cyberbullied by a classmate's parent who adopted a false identity on MySpace as a boy, wooed her, and then viciously turned against her and posted that 'The world would be a better place without [her].' There was the fourteen-year-old boy who sent death threats on Facebook to two other classmates he believed were interested in his girlfriend. (Goodno) Some students took only a few months before committing suicide. Time is precious, and cases like these cannot sit idly, waiting for their turn among robberies and attempted forgeries.

Instead, work must be done with school resource officers when concern is reported by school officials, parents, or students. Once a concern is reported, school officials must take the situation to local law enforcement, whether that be within the school or in the community, for further investigation. If police can justify a search by private posting of a student, parent, teacher, coach, or community member, the search should take place. Searches that proceed should be dealt with based on what is discovered. Involving the police would protect free speech by verifying probable cause, and also keep the system moving at a faster pace than the court system. This would ensure better protection of free-speech rights and a safer environment.

When cyberbullying is discovered, school officials must be granted permission to handle the situation, whether it involve students, teachers,

coaches, or anyone else. As the law currently states, schools may intervene if they can cite “substantial disruption,” or predicted “substantial disruption,” of the school environment caused by the action. This is not enough. In *J. C. vs.*

Beverly Hills Unified School District case (2009), the ruling was against the school. It had suspended *J. C.* for creating a video that ridiculed another student. Because the video was not created at school, with no proof of viewing at school, and only a few students were affected, the court determined that it was not a substantial disruption.

Therefore, the court mandated the reinstatement of *J. C.* However, this law doesn't effectively protect students. Phoebe Prince, a 15 year-old high school student, committed suicide in 2010 after being continuously cyber-bullied by fellow classmates. Although high school officials were aware of the problem, they could not act against the perpetrators because the cyberbullying was not a “substantial disruption” to the school environment. But when free speech crosses into cyberbullying, lives are put in danger, and protecting free speech is no longer the priority.

Therefore, in the case of cyberbullying, “substantial disruption” should be considered disruption of the school experience of any student, teacher, or coach. By making this amendment to the Tinker Standard, which has protected the free speech of students for over 50 years, lives as well as free speech would remain protected. The amendment would only concern cyberbullying and not other student speech. School officials must have permission to punish cyberbullying if any student is affected. As technology

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advances, many problems have arisen. Free speech has become confused with open-ended regulations, and high school students often receive a hard blow as the free speech that should be available to them is snatched away.

In the new digital age, the right to free speech must be preserved; meaning private posts should remain private unless police are involved. However, with evidence of cyberbullying, schools must address the issue as they see fit. The right to free speech doesn't encompass the right to harass and torture other students. Works Cited Chiquillo, Julieta. " Four Cases That Test Reach of Student Free-speech Rights in Age of Cyberbullying.

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