

AN ANALYSIS OF CYBERBULLYING POLICIES IN
VIRGINIA PUBLIC SCHOOL DISTRICTS

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Abstract

The study examines the acceptable computer system use policies of each of the public school districts in the Commonwealth of Virginia, as well as the Virginia School Boards Association and the National School Boards Association policies as they relate to cyberbullying. Public middle school and public secondary school administrators across the Commonwealth were surveyed to determine to what extent cyberbullying is an issue in their schools, and to determine their views of their districts' current policies and procedures as they relate to cyberbullying. The study addresses the legal framework, based upon case law and statutory law that school districts must work within to balance students' free speech rights without abandoning the need to provide a safe and controlled learning environment. The study examines five arenas of students' First Amendment rights as they relate to cyberbullying with particular attention paid to Internet Service Provider liability, including: 1) form of the speech, political or obscene, 2) school-sponsored speech, 3) severity of the disruption caused by the incident, 4) site(s) of the incident, and 5) if the incident rises to the level of a true threat. The study evaluates existing school district policies in addition to public school administrators' perceptions relative to related statutory and case law in order to formulate a model policy that is legally defensible and would be appropriate for adoption by Virginia public school districts.

DEDICATION

This dissertation is dedicated to my wife, Andrea, and children Bryce and Elijah, whose love, support, and understanding made completion possible.

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CHAPTER I

STATEMENT OF THE PROBLEM

Every year, educators witness first-hand the various physical, psychological and social effects bullying has on adolescent students. These effects range from bruises and black eyes to poor attendance and sharp declines in academic achievement. In a study conducted by Nansel and Associates of 15,686 students in grades six through ten, nearly 30 percent of students indicated more than occasional involvement as either a bully or victim of bullying.¹ Seals and Young noted that depression associated with bullying and victimization can lead to academic problems, self-defeating behaviors, and interpersonal problems.²

In recent years, numerous bullying prevention programs have been developed and implemented by educators in an effort to reduce the problem of bullying in American schools.³ With more emphasis being placed on eliminating face-to-face bullying, cyberbullying has begun to increase because of the perceived safe haven that is afforded by the Internet. For this study, cyberbullying is defined as an aggressive behavior that is purposeful but does not necessarily involve a difference of power or strength. Any written or verbal expression, act, or gesture directed at another person(s) to intimidate, frighten, ridicule, humiliate, or cause harm to the other person through email, instant messaging, text digital imaging messages, and digital images sent via cellular phones, Web pages, Web logs (blogs), chat rooms, or discussion groups, and other information technologies where the conduct is not related to the person's membership in a protected class (e.g., race, ethnic origin) is considered cyberbullying. The preceding definition is based upon a sample policy issued by the Attorneys' General of Massachusetts in 2005.⁴

¹ Tonja R. Nansel, Mary Overpeck, Ramani S. Pilla, W. June Ruan, Bruce Simons-Morton, and Peter Scheidt. *Bullying behaviors among U.S. youth: Prevalence and association with psychological adjustment*. Journal of the American Medical Association, (2001) 285, 2094-2100.

² Dorothy Seals and Jerry Young. *Bullying and victimization: Prevalence and relationship to gender, grade level, ethnicity, self-esteem, and depression*. Adolescence, (2003) 38, 735-747.

³ American Psychological Association. APA resolution on bullying among children and youth. Retrieved October 6, 2007, from http://www.apa.org/pi/cyf/bully_resolution_704.pdf.

⁴ *Promoting civil rights and prohibiting harassment, bullying, discrimination, and hate crimes: Sample policy for Massachusetts School Districts*. Boston: Office of the Massachusetts Attorney General (2005).

In one of the first widely publicized incidents involving cyberbullying, a Vermont middle school student, Ryan Patrick Halligan, took his own life in 2003 after suffering what he perceived as humiliating events conducted by a cyberbully.⁵ In a more recent cyberbullying incident in 2006, eighth grade student Megan Meier, from Dardenne Prairie, Missouri, committed suicide in 2006 after falling prey to a hoax perpetrated by the mother of a former friend.⁶ The suicides of both children provide examples of extreme cases that exemplify the pain and humiliation that can be inflicted upon the psyche and physical wellbeing of a child at the hands of a cyberbully.

A survey study of 264 students from three junior high schools showed nearly 25 percent had been victims of cyberbullying, and most of the victims had not reported the incident to an adult.⁷ In a nationwide survey of 500 teenagers conducted by Opinion Research Corporation on behalf of FightCrime.org, 36 percent stated they had been threatened or had malicious or embarrassing remarks made about them on-line.⁸ In an Internet-based study conducted by Patchin and Hinduja, 29 percent of respondents, primarily from English-speaking countries, reported having been the target of cyberbullying.⁹ In the same Patchin and Hinduja study, 47 percent of the respondents under 18 years of age reported having observed cyberbullying while online.¹⁰ In a 32 county study conducted throughout Colorado by Williams and Guerra, over 3,000 students in grades 5, 8, and 11 were surveyed regarding their experiences regarding physical, verbal, and Internet bullying.¹¹ Twenty-one percent of the students surveyed in this study reported having been the victim of a cyberbully with the incidents of cyberbullying peaking during their middle school years.¹² Additionally, in a study conducted by Kowalski and Limber, 3,767 students in grades six through eight were

⁵ John P. Halligan *If we only knew, if he only told us*. Retrieved May 2, 2009, from <http://www.RyanPatrickHalligan.org>.

⁶ Tina Meier *The story*. Retrieved May 2, 2009, from <http://www.meganmeierfoundation.org/story/>.

⁷ Qing Li. *Cyberbullying in schools: A research of gender differences*. *School Psychology International*, (2006) 27(2), 157-170.

⁸ Fight Crime: Invest in Kids. 2006 News Release. Retrieved October 30, 2007, from <http://www.fightcrime.org/release.php?id=231>.

⁹ Justin W. Patchin and Sameer Hinduja. *Bullies move beyond the schoolyard: A preliminary look at cyberbullying*. *Youth Violence and Juvenile Justice*, (2006) 4, 148-169.

¹⁰ *Ibid.*

¹¹ Kirk R. Williams and Nancy G. Guerra. *Prevalence and predictors of Internet bullying* (2006). Unpublished manuscript, University of California at Riverside.

¹² *Ibid.*

given an anonymous paper and pencil questionnaire asking them about their experiences with both traditional bullying and cyberbullying.¹³ Eighteen percent (678 students) of the students in the Kowalski and Limber study reported having been cyberbullied at least once within the previous two months.¹⁴ Of the 18 percent of the students in the Kowalski and Limber study who reported being cyberbullied, 67 percent (454 students) reported being bullied through instant messaging, 25 percent (170 students) had been bullied in chat rooms, and 24 percent (163 students) had been bullied through email messages.¹⁵ In a study related to the 2006 Kowalski and Limber study, Agatston and Carpenter surveyed 257 middle school students.¹⁶ The Agatston and Carpenter study showed that 18 percent of the students reported having been cyberbullied at least once in the previous two months.¹⁷ The Pew Internet and American Life Project, reported that 32 percent of all teenagers who use the Internet indicate that they have been targets of a range of annoying and potentially menacing online activities, including receipt of threatening messages; having their private emails or text messages forwarded without their consent; posting embarrassing pictures without their permission; or having rumors about them spread online.¹⁸

Cyberbullies can maintain a degree of anonymity, which enables them to feel there will be few, if any, consequences for their actions. The Internet offers a far more powerful vehicle for harassment than traditional methods of speech, and the invasion of the rights of the targeted individual is more potent.¹⁹

Cyberbullying is more likely to occur off school premises, and is more difficult to address by school personnel because of the perceived lack of authority to issue any type of punishment for misbehavior that takes place outside of school hours and in an

¹³ Robin M. Kowalski and Susan P. Limber. *Cyber bullying among middle school children* (2006). Manuscript under review.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Patricia W. Agatston and Mary Carpenter. *Electronic bullying survey* (2006). Unpublished manuscript.

¹⁷ Ibid.

¹⁸ Princeton Survey Research Associates International for the Pew Internet & American Life Project. *Parents and teens 2006 survey*. Retrieved May 31, 2009, from <http://www.authoring.pewinternet.org/Shared-Content/Data-Sets/2006/November-2006--Parents-and-Teens.aspx>.

¹⁹ Renee L. Servance. *Cyberbullying, cyberharassment, and the conflict between schools and the first amendment*. 2003 Wisconsin Law Review, 1213-1244.

environment beyond the scope of school control.²⁰ Kowalski, Limber, and Agatston state that many school counselors are unsure what to do when confronted with this new form of bullying.²¹ Many believe that, if cyberbullying happens outside of school, there is little that the school can do to assist the families.²² As noted in the study by Qing Li, cyberbullying is not only very prevalent among students; it is also a problem that is generally not reported to adults.²³ In the survey conducted for FightCrime.org, pre-teenage youths noted that they were just as likely to receive harmful messages at school, 45 percent, as at home, 44 percent.²⁴ In contrast, teenage youths received 30 percent of harmful and/or hurtful messages at school and 70 percent at home. Servance states, "...schools risk liability for both taking action that suppresses protected speech and for failing to prevent potentially harmful speech."²⁵ Hence, there is a tension between the rights of students to engage in free speech and the cultural need for civility and control of the negative effects that cyberbullying exerts.

Organization of Study

The following chapters are organized in such a manner as to examine the policies and regulations of Virginia Public School Districts and the current case and statutory law related to cyberbullying and First Amendment student speech. This analysis is conducted prior to addressing the methodology that was utilized in this study. Chapter Two focuses on the analysis of computer system use policies of each of the 132 public school districts in the Commonwealth of Virginia and the recommended policy of the Virginia School Boards Association pursuant to cyberbullying. Chapter Three addresses the legal framework public school districts are required to work within to balance students' free speech rights with the need to provide a safe and controlled instructional environment, as well as five arenas of students' First Amendment rights and related statutes as they relate to cyberbullying.

²⁰ Ibid.

²¹ Robin M. Kowalski, Susan P. Limber, and Patricia W. Agatston. *Cyber bullying: bullying in the digital age*. Blackwell Publishing (2008).

²² Ibid.

²³ Supra. note 7.

²⁴ Supra. note 8.

²⁵ Supra. note 19.

CHAPTER II

ANALYSIS OF POLICY

Establishing policy is a means by which school boards can begin to take steps toward effectively addressing issues such as cyberbullying. Policy predicated upon prevailing legal doctrine is required for school administrators who are entrusted to enforce such rules. Currently, most public school districts²⁶ in the Commonwealth of Virginia utilize the Virginia School Boards Association Policy IIBEA/GAB as the foundation for computer system use within the school district.²⁷ Some districts use this in conjunction with VSBA Policy IIBEA-R/GAB-R and IIBEA-E2/GAB-E2 which specifically define computer system use and require parent and student signatures before district computer system usage.²⁸ While these policies briefly address the submitting, posting, publishing, or displaying threatening or other inappropriate material, cyberbullying is not addressed specifically by the VSBA.²⁹ However, the student code of conduct contained in the Code of Virginia § 22.1-279.6 has been amended to note the use of electronic means for purposes of bullying, harassment, and intimidation as a behavior that is deemed unacceptable.³⁰ Still, this leaves school districts with limited guidance for regulation of cyberbullying.

Focus of Policy Analysis

This study examined the computer system use policies of each of the 132 public school districts in the Commonwealth of Virginia and the recommended policy of the Virginia School Boards Association pursuant to cyberbullying. Computer system use policies were obtained primarily through the use of digital access to local public school district policy manuals that are posted on the individual district websites. Those public

²⁶ The author recognizes that legally, local education agencies are called divisions in Virginia. For this study, the author will use the term district(s) due to the fact that this term is more commonly used across the country.

²⁷ Virginia School Board Association. Policy IIBEA/GAB: Acceptable Computer System Use (2009).

²⁸ Virginia School Board Association. Policy IIBEA-R/GAB-R: Acceptable Computer System Use (2009); Virginia School Board Association. Policy IIBEA-E2/GAB-E2: Acceptable Computer System Use Agreement (2009).

²⁹ *Supra.* notes 27 and 28.

³⁰ Code of Virginia. § 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations (2009). Retrieved September 28, 2009, from <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.6>.

school districts that did not offer electronic access to local school district policy manuals were contacted via email and telephone in an effort to gain access to the pertinent documents. Additionally, emails were sent and telephone interviews were conducted with representatives from various school districts in an effort to ensure that any documents specifically addressing their district's effort to police cyberbullying, other than through the computer use policy, were identified.

The analysis of policy focused primarily on measures local school districts have implemented in an effort to police cyberbullying (sending insulting emails, texting derogatory messages, inappropriate web postings, etc.) among its students. Specifically, the study evaluated how and to what extent school districts' policies have addressed the issue of cyberbullying regarding the site of the incident, required reporting of cyberbullying incidents, and consequences for individuals who send such electronic messages. Virginia public school districts were classified into several categories relative to regulating cyberbullying, including failure to define or address the issue of cyberbullying in their policy manuals or other district documents to delineating exactly what constitutes cyberbullying and how, when, and to what extent cyberbullying will be pursued administratively and legally by school authorities.

Comparison of Two Districts' Policies

As a starting point and means of comparison for how Virginia public school districts' policies vary, are two school districts, Wythe County Public Schools (WCPS) and Spotsylvania County Public Schools (SCPS), that have adopted VSBA Policy IIBEA/GAB and IIBEA-R/GAB-R which are contained in their local policy manuals. As noted, VSBA Policy IIBEA/GAB and IIBEA-R/GAB-R do not specifically address cyberbullying. However, cyberbullying is mentioned in the Wythe County Public Schools Technology User Plan, and Spotsylvania County Public Schools has expanded somewhat the VSBA Policy. Wythe County Public Schools Technology User Plan is addressed to its employees and students and instructs, "...any incident of cyberbullying such as personal attacks and threats to you, others, or to school property should be immediately reported, and copies of any threatening content or messages should be

retained and provided to school authorities and/or law enforcement, if appropriate.”³¹ Spotsylvania County Public Schools Policy IIBEA-R takes this a step further by indicating “...the division (district) is not responsible for student or staff use of electronic technology resources outside of school.”³² However, staff or students may be disciplined for any technology that negatively affects the SCPS network or that negatively affects the safety or reputation of any staff member or student in the school division.”³³ Both school districts have addressed the issue of cyberbullying, but to differing degrees and in different forms. WCPS advises that cyberbullying is unacceptable and should be reported.³⁴ WCPS also alludes to the fact that cyberbullying may elicit negative consequences for perpetrators from school authorities or law enforcement.³⁵ The WCPS Technology User Plan does not differentiate between location of the incident and level of disruption like SCPS Policy IIBEA-R.³⁶ The Spotsylvania County Public Schools policy notes specifically that the district is not responsible for incidents occurring outside of school unless the incident negatively affects the SCPS network or the safety or reputation of any employee or student in the district.³⁷

Policy Analysis Areas Reviewed

The computer use policies of each of the 132 Virginia school districts were reviewed specifically for the following five areas of policy:

- 1) Cyberbullying defined in the district computer use policy;
- 2) Location of cyberbullying incident is addressed in the district computer use policy;
- 3) Requirement for reporting incidents of cyberbullying;
- 4) Consequences for reported incidents of cyberbullying, and
- 5) Cyberbullying defined or addressed in other district policies or procedures.

³¹ Wythe County Public Schools. Wythe County Public Schools Technology User Plan 2009-2010.

³² Spotsylvania County Public Schools. Policy IIBEA-R: Acceptable Use of Electronic Network Resources and Internet Safety. Retrieved October 31, 2009, from <http://www.boarddocs.com/vsba/scs/Board.nsf/Public?OpenFrameSet>.

³³ Ibid.

³⁴ Supra. note 31.

³⁵ Id.

³⁶ Id.

³⁷ Supra. note 32.

Cyberbullying Defined in District Policy

Virginia public school districts' computer use policies vary in whether and to what extent they define cyberbullying. Of the 132 districts studied, 120 district computer use policies do not specifically define cyberbullying. However, these policies do allude to the fact that cyberbullying is prohibited in the terms and conditions of use. An example of which is contained in the policy of Alexandria City that notes, "Prohibited conduct includes submitting, posting, publishing, or displaying any obscene, profane, threatening, illegal, or other inappropriate material."³⁸ While this school district's policy does not specifically define cyberbullying, the policy does prohibit conduct that is recognized as cyberbullying such as posting threatening material.³⁹ Another district policy that falls within this category is that of Campbell County. Campbell County's computer use policy is more specific than the policy of Alexandria City in that it notes, "Students shall not use the system or school computers to harass another person, engage in personal attacks, or post false or defamatory information about a person or organization."⁴⁰ Though not stating that students shall not use the school computers to cyberbully other individuals, this policy defines cyberbullying as a prohibited activity without using the term.⁴¹ Two Virginia public school districts, Manassas Park City and Prince William County, use Code of Virginia §18.2-152.7:1⁴² as a basis for defining prohibited uses of the school system's computers and network.⁴³ These policies state, "Harassment by computer, which includes transmitting any material or posting material on any Web site which is threatening to another person, or which is intended to coerce,

³⁸ Alexandria City Public Schools. Policy IIBEA-R/GAB-R: Acceptable Computer System Use. Retrieved October 30, 2009, from <http://www.acps.k12.va.us/board/manual/iibea.pdf>.

³⁹ Ibid.

⁴⁰ Campbell County Public Schools. Policy IIBEA/GABA: Administrative Procedures Governing Computer System Use. Retrieved October 30, 2009, from <http://www.campbell.k12.va.us/Modules/ShowDocument.aspx?documentid=2848>

⁴¹ Ibid.

⁴² Code of Virginia § 18.2-152.7:1. Harassment by computer; penalty. Retrieved November 23, 2009, from <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-152.7C1>.

⁴³ Manassas Park City Public Schools. Policy IIBEA-R: Acceptable Use Policy for Technology. Retrieved October 30, 2009, from http://www.mpark.net/education/sctemp/88fc2dcf73fd515999970ba318846999/1266091260/2_IIBEA_GA_B.pdf; Prince William County Public Schools. Regulation 295-1: Computer Systems and Network Services – PWCS Acceptable Use and Internet Safety Policy. Retrieved October 31, 2009, from http://www.pwcs.edu/Admin/pwcs/admin_pdfs/r295-1.pdf

intimidate, or harass is prohibited.”⁴⁴ While none of these school districts use the term cyberbullying in their computer use policies, they convey the message that cyberbullying is a prohibited act in which the system user should not participate.

Of the remaining 12 school districts in Virginia, only one district policy, that of Amelia County, defines cyberbullying in neither idea nor term.⁴⁵ The 11 school district policies that define cyberbullying in term do so to varying degrees. In Bedford County’s policy under the terms and conditions of use it is noted that, “Unacceptable use includes participating in cyberbullying such as personal attacks and/or threats on/against anyone including being impolite.”⁴⁶ This policy uses the term cyberbullying and defines what constitutes this act. The computer use policy of Floyd County also defines what constitutes cyberbullying by stating, “The following uses of Floyd County Schools computer network including Internet access are prohibited by all users: to threaten, intimidate, harass, or bully others, i.e., cyberbullying.”⁴⁷ The Stafford County school district policy specifically defines cyberbullying as, “Cyberbullying – Threats made by one computer system user toward another through electronic-mail, text messaging or posts made on Web sites (e.g., web-logs (commonly referred to as “blogs”), social networking sites, chat rooms, etc.”⁴⁸ It is worth noting that Stafford County’s policy differs from that of the other examples given in that it only recognizes threats as a means by which an individual may be cyberbullied.⁴⁹ Where as the other policies generally include harassment as an additional cyberbullying technique.

Location of Incident Defined in District Policy

A second area in the analysis of Virginia public school districts’ computer use policies addressed the location of a cyberbullying incident and whether the school

⁴⁴ Ibid.

⁴⁵ Amelia County Public Schools. Policy IIBEA/GAB: Acceptable Computer System Use. Retrieved October 30, 2009, from <http://amelia.k12.va.us/main/admin/policies/SECTION%20I%20-%20INSTRUCTION.pdf>.

⁴⁶ Bedford County Public Schools. Policy IIBEA: Acceptable Computer System Use. Retrieved October 30, 2009, from <http://www.boarddocs.com/vsba/bcsbva/Board.nsf/PolicyBooks?OpenFrameSet>.

⁴⁷ Floyd County Public Schools. Policy IIBEA: Acceptable Computer System Use. Retrieved October 30, 2009, from <http://www.floyd.k12.va.us/district/policies/PolicyManual/Section%20I%20-%20Instruction/IIBEA%20-%20Acceptable%20Computer%20System%20Use.pdf>.

⁴⁸ Stafford County Public Schools. Policy 6301: Acceptable Computer Use. Retrieved October 31, 2009, from <http://www.boarddocs.com/vsba/scpsva/Board.nsf/Public?OpenFrameSet>.

⁴⁹ Ibid.

district policy made any differentiation between in-school incidents and out-of-school incidents. Of the 132 school district policies studied, 124 school district computer use policies did not mention location in regard to computer use. The remaining eight school districts defined location either partially or specifically. One of which is Spotsylvania County that is discussed earlier. Colonial Beach school district notes in their computer use policy that, “Outside of school, families bear responsibility for the same guidance of Internet use as they exercise with information sources such as television and other possibly offensive media.”⁵⁰ Chesterfield County’s computer use policy more specifically advises that, “Students are personally accountable for any and all activities logged to their computer identification and password. Any activities that disrupt or interfere with the safety and welfare of the school community are prohibited, even if such use takes place off school property.”⁵¹ Henrico County’s computer use policy is similar to Chesterfield County’s policy.⁵² However, Henrico County’s policy adds, “Obscene, pornographic, threatening, or other inappropriate use of technology, including but not limited to, email, instant messaging, web pages, and use of hardware and/or software which disrupt or interfere with the safety and welfare of the school community, are prohibited, even if such uses take place off school property (i.e., home, business, private property, etc.).”⁵³ Although the term cyberbullying is not mentioned in the Henrico County policy, by incorporating the term “threatening”, the policy addresses cyberbullying that takes place off-campus using school resources.⁵⁴ The Russell County school district also uses the term “threat” in its computer use policy, albeit the term “true threat”.⁵⁵ The policy states, “Off-campus Internet use that causes a substantial

⁵⁰ Colonial Beach Public Schools. Network Acceptable Use and Responsibility Policy Student Agreement. Retrieved October 30, 2009, from <http://colonialbeach.schoolinsites.com/Download.asp?L=1&LMID=161379&PN=DocumentUploads&DivisionID=4198&DepartmentID=&SubDepartmentID=&SubP=&Act=Download&T=1&I=43668>.

⁵¹ Chesterfield County Public Schools. Regulation 401.1: Student Use of Technology. Retrieved October 30, 2009, from http://chesterfield.k12.va.us/CCPS/About_CCPS/files/policy_manual/4000%20Student%20Services.pdf.

⁵² Henrico County Public Schools. Regulation R6-05-012: Guidelines for Acceptable/Safe Use of Technology and the Internet. Retrieved October 30, 2009, from <http://webapps.henrico.k12.va.us/policy/chapter.asp>.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Russell County Public Schools. Student Code of Conduct: Acceptable and Unacceptable Uses of the Internet. Retrieved October 31, 2009, from <http://www.russell.k12.va.us/Student%20Conduct%20Code.pdf>

disruption to the educational environment or interferes with another student's rights may result in disciplinary action. Criminal action may be taken when the off-campus Internet use constitutes a true threat."⁵⁶ The Russell County policy is clearly predicated on the guidance handed down from judicial rulings on the matter, as this language is most often used in case law related to student off-campus speech.

The following excerpt from the Prince William County computer use policy shows the detailed delineation of off-campus activities that could result in negative consequences for students.

The School Division has no legal responsibility to regulate or review off-campus Internet messages, statements, postings, or acts. However, PWCS reserves the right to discipline students or employees for actions taken off-campus, which would violate this Regulation if occurring on-site, if such actions adversely affect the safety, well-being, or performance of students while in school, on school buses, at school activities, or coming to and from school; if such actions threaten violence against another student or employee, if such actions violate local, state, or federal law, or School Board policies or regulations or the Code of Behavior, or if such actions disrupt the learning environment, administration, or orderly conduct of the school.⁵⁷

The one computer use policy that overtly ties cyberbullying that occurs off-campus to on-campus sanctions is that of West Point Public Schools. The West Point policy states,

Hate crimes and bullying by electronic means including blogs will be treated as seriously as traditional hate crimes and bullying. Off campus behavior can lead to escalating conflict that spills over to schools. Consequences will be given for hate crimes, cyberbullying, and blogs that impact or disrupt school related activities, functions, and individuals.⁵⁸

School districts that address off-campus computer use give their respective students fair warning that their off-campus activities can hold negative on-campus consequences.

⁵⁶ Ibid.

⁵⁷ Supra. note 43.

⁵⁸ West Point Public Schools. Policy IIBEA-R/GAB-R: Computers and Computer Network Acceptable Use and Internet Safety Policy. Retrieved October 31, 2009, from http://www.wpps.k12.va.us/downloads/4B7563B3BA9142B9BC0BC18ACA61AB56/sec_i.pdf.

Required Reporting of Incident in District Policy

Another area of analysis dealt with the required reporting of cyberbullying incidents per district computer use policy. Of the 132 Virginia school districts' policies studied, 32 require reporting by either staff or students of either security or safety concerns, inappropriate content, comments, or messages, unacceptable use or activity, harassment, or cyberbullying. Three of the 32 districts require only their staff to report incidents of harassment or cyberbullying. An example of this is contained in the Albemarle County computer use policy that states, "Staff shall report any incident of harassment or any other unauthorized or inappropriate use of technology encountered over School Division computer resources."⁵⁹

The remaining 29 districts require reporting of the aforementioned items by students. As an example, the Gloucester County computer use policy requires users to report security concerns by stating, "If any user identifies a security problem, the user shall notify the building principal or system administrator immediately."⁶⁰ The ambiguity of this statement allows for multiple interpretations by the reader and may be difficult to enforce. One interpretation is that a threat could be construed as a security problem. The Chesapeake school district policy gives a more precise wording by noting, "Users shall promptly disclose to a teacher or other school employee any message received that is inappropriate or makes the user feel uncomfortable."⁶¹ The Falls Church City computer use policy is more clear and advises its students that, "All users should immediately report all incidents of cyberbullying, such as personal attacks or threats to the user, others, or school property."⁶² The Falls Church policy further requires students to, "Retain copies of any threatening content or messages to provide to school

⁵⁹ Albemarle County Public Schools. Policy IIBE-R: Acceptable Use of Technology. Retrieved October 30, 2009, from http://esb.k12albemarle.org/Reference_Library/ESB_Policies_and_Regulations/Policies/IIBE_0507.pdf.

⁶⁰ Gloucester County Public Schools. Policy IIAB-R/GBCE-R: Computer Resources Acceptable Use and Responsibility. Retrieved October 30, 2009, from [http://gets.gc.k12.va.us/policymanual/1%20Instructional%20Program/IIAB-R%20Computer%20Resources%20Acceptable%20Use%20and%20Responsibility%20\(Also%20GBCE-R\).pdf](http://gets.gc.k12.va.us/policymanual/1%20Instructional%20Program/IIAB-R%20Computer%20Resources%20Acceptable%20Use%20and%20Responsibility%20(Also%20GBCE-R).pdf).

⁶¹ Chesapeake Public Schools. Policy Instruction R 6-36: Guidelines for Acceptable Telecommunications and Internet Use for Students. Retrieved October 30, 2009, from http://www.cpschools.com/school_board/sb_manual_sept09.pdf.

⁶² Falls Church City Public Schools. Regulation 9.40: FCCPS Internet Safety and Acceptable Use of Electronic Media. Retrieved October 30, 2009, from http://www.fccps.org/board/policies/9/9_40P.pdf.

authorities and/or law enforcement, if appropriate.”⁶³ The same clarity of language is used in the Montgomery County policy. The Montgomery County computer use policy leaves little room for misinterpretation by stating, “I will not cyberbully. Cyberbullying means any threats, harassment, or intimidation of another person using the computer. I will tell an adult if I see any cyberbullying, cyberthreats, or inappropriate activity.”⁶⁴ As is the case with school districts that advise students that off-campus speech could have on-campus consequences, school districts that require students to report incidents of cyberbullying send the message that cyberbullying is potentially harmful and not an appropriate use of digital media.

Consequences for Cyberbullying Defined in District Policy

The fourth area of analysis addressed the consequences for reported cyberbullying incidents as contained in the computer use policies of Virginia public school districts. Each of the 132 district policies studied noted potential consequences for violating the acceptable standards as outlined in the terms and conditions of use. However, 114 of the district policies simply gave a broad general statement concerning possible consequences for violation of the policy or applicable regulations. The language used in the Botetourt County computer use policy is illustrative of other districts policies. The Botetourt County policy states, “The failure of any student, teacher, or administrator to follow the terms of the Agreement, this policy or accompanying regulation may result in loss of computer system privileges, disciplinary action, and/or appropriate legal action.”⁶⁵ By including this, or a comparable statement, each of the 114 school districts in this group, other than Amelia County which mentions cyberbullying in neither term nor idea,⁶⁶ provides students with a warning that participation in cyberbullying could lead to sanctions or punishment.

Of the 18 Virginia public school districts that list specific consequences for violation of the computer use policy, three school districts, Floyd County, Henrico

⁶³ Ibid.

⁶⁴ Montgomery County Public Schools. Policy 6-3.13: Acceptable Use and Internet Safety Policy. Retrieved October 31, 2009, from <http://policy.mcps.org/6-3.13.htm>.

⁶⁵ Botetourt County Public Schools. Policy IIBEA/GAB: Acceptable Computer System Use. Retrieved October 30, 2009, from <http://www.bcps.k12.va.us/index.php/iibea-gab-acceptable-computer-system-use.html>.

⁶⁶ Supra. note 45.

County, and King George County, note that additional charges or sanctions could be brought against individuals who participate in cyberbullying. Floyd County's policy states, "Further disciplinary actions may be taken in keeping with existing policies regarding the code of conduct, especially concerning cyberbullying. Additionally, legal action may be taken when appropriate."⁶⁷ The Henrico County computer use policy incorporates the Code of Virginia § 18.2-152.7:1 into its regulations governing acceptable computer use,⁶⁸ "Violations of these regulations will result in serious disciplinary action and may also result in criminal charges if the violation of the regulation is also a violation of federal, state, or local law or ordinance." The policy delineates, "Examples of such dual violations are ... (ii) harassment, threat, or cyberbullying via computer...(See Title 18.2 of the Code of Virginia). Ignorance of these regulations will not excuse an infraction."⁶⁹ By including reference to Virginia statutory law in the policy, the school district advises students that participation in cyberbullying is not only against school policy, but also against the law in the Commonwealth of Virginia. The King George County school district policy also utilizes reference to the Code of Virginia § 18.2-152.7:1 in its computer use policy.⁷⁰ The King George County policy states, "Anyone committing acts of this kind will face criminal/civil charges and disciplinary action by the school."⁷¹ The district lists each applicable state statute from the Code of Virginia including § 18.2-152.7:1 harassment by computer (cyberbullying).⁷²

Cyberbullying Addressed in Other Policies or Procedures

The final area identified whether Virginia public school districts have defined or addressed cyberbullying in other district policies or procedures. One hundred six of the 132 districts policies referenced an Internet safety program pursuant to computer use. Interestingly, this is a mandatory component of the computer use policy for Virginia school districts, although 26 districts have not yet complied.⁷³ The Virginia Department

⁶⁷ Supra. note 47.

⁶⁸ Supra. note 42.

⁶⁹ Supra. note 52.

⁷⁰ Supra. note 42.

⁷¹ King George County Public Schools. Policy IGEA: Acceptable Technology Use Policy for Students Computer Technology and the Internet. Retrieved October 30, 2009, from http://www.kgcs.k12.va.us/sbo/policy_manual/Policy%20I/IGEA.pdf.

⁷² Supra. note 42.

⁷³ Supra. note 30.

of Education (VDOE) has published guidelines that advise all Virginia public school districts of the proper components that have to be included in their Internet safety programs.⁷⁴ In the guidelines, the VDOE notes that, “As stated in the 2006 legislation, each Virginia school division must add a comprehensive Internet safety component to its acceptable use policy.”⁷⁵ It is unclear why the other 26 school districts did not include reference to an Internet safety program in their policy. The VDOE guidelines also include the following: “Students should recognize the various forms of cyberbullying and know what steps to take if confronted with that behavior.”⁷⁶ The Rockbridge County computer use policy typifies that of the districts that address the required Internet safety program by noting, “(8) a component on Internet safety for students that is integrated in the division’s instructional program.”⁷⁷ While the Rockbridge County computer use policy does not state that issues related to cyberbullying would be taught in the Internet safety program, based upon the guidelines issued by the Virginia Department of Education on the subject, instruction on the issues related to cyberbullying would likely be a key curriculum component.

As can be seen from these examples, there is no set standard or uniform policy established to guide Virginia public school districts as they confront cyberbullying issues. This study evaluated existing policies relative to related statutory and case law in order to formulate a model policy appropriate for adoption by Virginia public school districts.

⁷⁴ Virginia Department of Education. Guidelines and resources for Internet safety in schools. Retrieved January 27, 2009, from http://www.doe.virginia.gov/support/safety_crisis_management/internet_safety/guidelines_resources.pdf.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Rockbridge County Public Schools. Policy IIBEA/GAB: Acceptable Computer System Use. Retrieved October 31, 2009, from http://www.rockbridge.k12.va.us/RCS_Policy/policy/I/IIBEA%20%20GAB.doc.

CHAPTER III

ANALYSIS OF CASE LAW

The study further addressed the legal framework, based upon case law, public school districts are required to work within to balance students' free speech rights with the need to provide a safe and controlled instructional environment. The study examined five arenas of students' First Amendment rights and related statutes as they relate to cyberbullying. Particular attention is paid to Internet Service Provider liability, including: 1) form of the speech, political or obscene, 2) school-sponsored speech, 3) severity of the disruption caused by the incident, 4) site(s) of the incident, and 5) whether the incident rises to the level of a true threat.

The First Amendment and Student Speech

The First Amendment provides the basis for an individual's right to the freedom of expression, and prohibits the federal government from abridging this right.⁷⁸ Subsequent Supreme Court decisions made the First Amendment applicable to state and local governments. The First Amendment guarantees:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.⁷⁹

As Alexander and Alexander note, "Government cannot censor or restrain expression, and though the right is not unlimited, the Supreme Court precedents jealously guard it."⁸⁰

Analysis of United States Supreme Court Cases

The analysis of students' First Amendment speech rights is based primarily on four landmark United States Supreme Court decisions that provide standards for school officials pursuant to student speech; *Tinker v. Des Moines Independent Community*

⁷⁸ U. S. Const. Amend. I.

⁷⁹ Ibid.

⁸⁰ Kern Alexander and M. David Alexander. *American Public School Law Sixth Edition*. Thomson West (2005).

School District,⁸¹ *Bethel School District No. 403 v. Fraser*,⁸² *Hazelwood School District v. Kuhlmeier*,⁸³ and *Morse v. Frederick*.⁸⁴ Cumulatively, these cases have helped define the extent that students may voice or communicate their ideas on school grounds without overstepping their constitutionally protected rights to free speech. Beginning with the *Tinker* case, where students were recognized as having a right to express controversial opinions on school grounds without facing punishment from school officials, subsequent cases further delineated the extent that students may express themselves on school grounds without suffering sanctions by school officials.

Tinker v. Des Moines Independent Community School District

In the *Tinker* case, a group of adults and students in Des Moines, Iowa, in December, 1965, decided to publicize their objections to the hostilities in Vietnam by wearing black armbands during the holiday season. The principals of the Des Moines schools became aware of the plan to wear armbands and adopted a policy that any student wearing an armband to school would be asked to remove it, and if he refused, he would be suspended until he returned without the armband.⁸⁵ The group of adults and students were aware of the newly adopted regulation. A group of students, consisting of John Tinker, Mary Beth Tinker, and Christopher Eckhardt, wore the black armbands to school. The students were suspended from school until they removed their armbands, and did not return to school until after the planned period for wearing armbands had expired.⁸⁶

A complaint was filed in the United States District Court seeking an injunction that would restrain the school officials from disciplining the students. The District Court dismissed the complaint upholding the constitutionality of the school authorities' actions.⁸⁷ The court ruled that their actions were reasonable in order to prevent disturbance of school discipline. The case was appealed to the Eighth Circuit Court of

⁸¹ 393 U.S. 503, 89 S. Ct. 733 (1969). *Tinker v. Des Moines Independent Community School District*.

⁸² 478 U.S. 675, 106 S. Ct. 3159 (1986). *Bethel School District No. 403 v. Fraser*.

⁸³ 484 U.S. 260, 108 S. Ct. 562 (1988). *Hazelwood School District v. Kuhlmeier*.

⁸⁴ 551 U.S. 393, 127 S. Ct. 2618, (2007). *Morse v. Frederick*.

⁸⁵ *Supra*. note 81.

⁸⁶ *Id.*

⁸⁷ *Id.*

Appeals which considered the case *en banc*. The court was equally divided, and the District Court's ruling was affirmed without opinion.⁸⁸

In granting certiorari, the Supreme Court reversed and remanded the Eighth Circuit Court's decision, determining that students did not abdicate their First Amendment speech rights when they entered the school grounds.⁸⁹ The Court noted that this would unconstitutionally interfere with the liberty of teacher, student, and parent as determined in *Meyer v. Nebraska*.⁹⁰ The Court opined that students in public schools, as well as out of school, are *persons* under our Constitution.⁹¹ The Court determined that the speech and circumstances of this case were closely akin to pure speech which is entitled to comprehensive protection under the First Amendment as outlined in *Cox v. Louisiana*.⁹² As Justice Fortas noted, a mere desire to avoid the discomfort and unpleasantness that accompany unpopular viewpoints is not justification for prohibiting a particular expression of opinion.⁹³ Students cannot be punished merely for expressing their personal views on school premises unless the school authorities have reason to believe that such expressions will substantially interfere with the work of the school or impinge on the rights of other students. However, Glenn notes, "The threat of disruption can be very difficult to prove, meaning that prior restraint is difficult."⁹⁴

Bethel School District No. 403 v. Fraser

The *Fraser* case resulted from a speech delivered by Matthew Fraser, a high school senior, nominating a fellow student for a student elective office. Prior to delivering the speech, two of Fraser's teachers informed him that the content was

⁸⁸ *Id.*

⁸⁹ *Id.* The Supreme Court explicitly recognized student rights by stating "First Amendment rights, applied in light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. This has been the unmistakable holding of this court for almost fifty years."

⁹⁰ 262 U.S. 390, 43 S.Ct. 625 (1923). *Meyer v. State of Nebraska*. The Court held that a 1919 Nebraska law restricting foreign-language education violated the Due Process clause of the Fourteenth Amendment.

⁹¹ *Supra.* note 81.

⁹² 379 U.S. 536, 85 S.Ct. 453 (1965). *Cox v. State of Louisiana*. The Court held that a state government cannot employ "breach of the peace" statutes against protesters engaging in peaceable demonstrations that may potentially incite violence.

⁹³ *Supra.* note 81.

⁹⁴ William Glenn. *Regulating student created websites: Free speech in cyberspace*. Retrieved January 27, 2008, from <http://www.cnx.org/content/m14559/latest/>.

inappropriate, and his delivering the speech may have severe consequences. This was based on a disciplinary rule at Bethel High School prohibiting the use of obscene language in the school.⁹⁵ Fraser delivered the speech, which referred to his candidate in terms of graphic and explicit sexual metaphors, to a captive audience of approximately 600 high school students.⁹⁶ The following day, the assistant principal called Fraser into her office and notified him that the school considered his speech a violation of the aforementioned rule. Fraser admitted that he had deliberately included sexual innuendo in his speech. The assistant principal informed Fraser that he would be suspended for three days, and he would not be considered for graduation speaker at the school's commencement exercises.⁹⁷

Fraser appealed the suspension through the school district's grievance procedures. The speech was determined to be indecent, lewd, and offensive. The examiner determined that the speech fell within the meaning of obscene as used in the disruptive conduct rule, and affirmed the discipline in its entirety.⁹⁸ Fraser served two days of his suspension and returned on the third day.⁹⁹

An action was then brought by Fraser, through his father, in the U.S. District Court for the Western District of Washington alleging a violation of his First Amendment right to freedom of speech and sought both injunctive relief and monetary damages.¹⁰⁰ The District Court held that the school's sanctions had violated Fraser's First Amendment rights, and that the disruptive conduct rule was unconstitutionally vague. The District Court further determined that removal of Fraser's name from the speaker's list had also violated the Due Process Clause of the Fourteenth Amendment.¹⁰¹ The District Court awarded damages and litigation costs to Fraser, and enjoined the school district from preventing him from speaking at the graduation commencement ceremonies.¹⁰²

⁹⁵ Supra. note 82.

⁹⁶ Id. During the delivery of the speech, it was observed that some students were vocal and some made gestures that graphically simulated the sexual activities alluded to in the speech. Other students appeared to be bewildered and embarrassed.

⁹⁷ Id.

⁹⁸ Id.

⁹⁹ Id.

¹⁰⁰ Id.

¹⁰¹ Id.

¹⁰² Id.

The case was appealed by the school district to the Ninth Circuit Court of Appeals which affirmed the judgment of the lower court.¹⁰³ The Ninth Circuit Court held that the speech was indistinguishable from the protest armband in *Tinker*.¹⁰⁴ The court also rejected the district's argument that the speech had a disruptive effect on the educational process, and that the school district had the power to control the language used to express ideas during a school-sponsored activity.¹⁰⁵

The Supreme Court, upon appeal, reversed and narrowed the scope of students' constitutional rights by determining that the freedom to advocate controversial views must be balanced by the societal interest in teaching students socially appropriate behavior.¹⁰⁶ The Court added that the constitutional rights of students in a public school setting are not automatically coextensive with the rights of adults in other settings as outlined in *New Jersey v. T.L.O.*¹⁰⁷ The Court opined that there was a marked distinction between the armbands in *Tinker* and the sexual content of the speech in *Fraser*. The Court acknowledged limitations on the otherwise absolute interest of the speaker in reaching an unlimited audience where the speech is sexually explicit and the audience includes children in *Ginsberg v. New York*.¹⁰⁸ The Court also held that threatening or highly offensive speech had little value, and school officials may limit such speech that undermines the school's educational mission.¹⁰⁹ Chief Justice Burger noted that the Manual of Parliamentary Practice,¹¹⁰ prohibits the use of expressions offensive to other participants, and is used by Congress. He asked, "Can it be that what is proscribed in the halls of Congress is beyond the reach of school officials to regulate."¹¹¹

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ 469 U.S. 325, 105 S. Ct. 733 (1985). *New Jersey v. T.L.O.* Court ruled that searches by school officials is constitutionally permissible if reasonable and not excessively intrusive.

¹⁰⁸ 390 U.S. 629, 88 S. Ct. 1274 (1968). *Ginsberg v. New York*. Court upheld a New York statute banning the sale of sexually oriented material to minors, even though the material in question was entitled to First Amendment protection with respect to adults.

¹⁰⁹ *Supra*. note 82.

¹¹⁰ Thomas Jefferson. *Manual of Parliamentary Practice: for the Use of the Senate of the United States* (3rd ed.). Washington, DC: Milligan and Cooper (1812).

¹¹¹ *Supra*. note 82

Hazelwood School District v. Kuhlmeier

The *Kuhlmeier* litigation arose from two pages of articles that were deleted from a school newspaper. Robert Reynolds, the principal of Hazelwood East High School, reviewed proofs for each copy of the *Spectrum*, the school newspaper, prior to publication. When Reynolds reviewed the proofs for the May 13, 1983 edition, he objected to two of the articles. One article described three Hazelwood students' experiences with pregnancy, and the other article dealt with the impact of divorce on students in the school.¹¹² Reynolds was concerned that the pregnant students might be identifiable from the text. He was also concerned that references to sexual activity and birth control were inappropriate for the younger students.¹¹³ Also, Reynolds felt, that in the divorce story, the student who was named had complained about her father and mother. He indicated that this may become an issue because the parents were not given an opportunity to respond to the remarks or consent to their publication.¹¹⁴ Because of an approaching publication deadline, Reynolds had the two pages containing the articles removed rather than not publishing the newspaper. This reduced the paper from the normal six pages to an abbreviated four-page edition. The two deleted pages also contained articles on teenage marriage, runaways, and juvenile delinquents about which Reynolds had no objection.¹¹⁵ Reynolds informed his superiors of his decision, who concurred.¹¹⁶

An action was brought by the three student newspaper staff members in the United States District Court for the Eastern District of Missouri seeking a declaration that their First Amendment rights had been violated, as well as injunctive relief and monetary damages.¹¹⁷ The District Court denied the requested injunction, concluding that school officials may impose restraints on students' speech in publications such as school-sponsored newspapers if their decisions were determined on a substantial and

¹¹² *Supra.* note 83.

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

reasonable basis.¹¹⁸ The court held that Reynolds's action was justified to avoid the impression that the school endorses the sexual norms of the subjects.¹¹⁹

The students appealed the District Court's decision to the Eighth Circuit Court of Appeals which reversed the ruling of the lower court holding that the newspaper was a public forum intended to be and operated as a conduit for student viewpoint.¹²⁰ Basing their decision upon *Tinker*, the Court of Appeals found no evidence that the principal could have reasonably forecast that the censored articles or any materials in the censored articles would have materially disrupted classwork or given rise to substantial disorder in the school.¹²¹

In granting certiorari, the Supreme Court reversed the Eighth Circuit Court of Appeals. The *Kuhlmeier* Court limited the *Tinker* decision by ruling that school officials are authorized to regulate the contents of school-sponsored publications.¹²² The Court differentiated this case from *Tinker*. The Court acknowledged that the standard for determining when a school may punish student expression that happens to occur on school premises is not the standard for determining when a school may refuse to lend its name and resources to the dissemination of student expression.¹²³ The Court also expressed the distinction between speech that is sponsored by the school and speech that is not consistent with *Papish v. Board of Curators of University of Missouri*.¹²⁴ The Court determined that a school need not tolerate student speech that is controversial within a student newspaper and is inconsistent with its basic educational mission as outlined in *Bethel School District No. 403 v. Fraser*.¹²⁵ The court justified its opinion on the rationale that a school newspaper is not a forum for public expression unless school authorities have "by policy or by practice" opened those facilities for indiscriminate use

¹¹⁸ Id. The court found that Reynolds' concern that the pregnant students' anonymity would be lost and their privacy invaded was legitimate and reasonable, given the small number of pregnant students at Hazelwood East and several identifying characteristics that were disclosed in the article.

¹¹⁹ Id.

¹²⁰ Id.

¹²¹ Id. The court concluded that school officials were entitled to censor the articles on the ground that they invaded the rights of others only if publication of the articles could have resulted in tort liability to the school.

¹²² Id.

¹²³ Id.

¹²⁴ 410 U.S. 667, 93 S.Ct. 1197 (1973). *Papish v. Board of Curators of University of Missouri*. The Court held that a university's decision to expel a student for distributing a paper on campus containing indecent language and offensive cartoons violated the First Amendment.

¹²⁵ Supra. note 82.

by the general public as held in *Perry Education Association v. Perry Local Educators' Association*.¹²⁶ Justice White delivered the opinion of the Court, "A school must be able to set high standards for the student speech that is disseminated under its auspices, standards that may be higher than those demanded by some in the real world."¹²⁷ Justice White continued, "A school may refuse to disseminate student speech that does not meet those standards."¹²⁸

Morse v. Frederick

Since the 1988 ruling in *Kuhlmeier*, the United States Supreme Court has heard one case, *Morse v. Frederick*, related to student First Amendment speech rights. The *Morse* Court further limited the *Tinker* Court's decision by ruling that a school official may, consistent with the First Amendment, restrict student speech at a school event, when that speech is reasonably viewed as promoting illegal drug use.¹²⁹ However, as Chief Justice Roberts stated in his opinion, "...the debate between the dissent and this opinion is less about constitutional First Amendment principles than about whether Frederick's banner constitutes promotion of illegal drug use."¹³⁰ While this case certainly addresses student First Amendment speech rights, the advocacy of illegal drug use weighed heavily in the decision.

In the *Morse* case, the school principal, Deborah Morse permitted staff and students to participate in the Olympic Torch Relay, as an approved school event, since the Olympic runners passed through Juneau, Alaska. Joseph Frederick, a student, joined a group of friends across the street from the school to watch the event. As the torchbearers passed by, Frederick and his friends unfurled a large banner bearing the phrase: "BONG HiTS 4 JESUS". At this time, Principal Morse crossed the street and demanded the banner be taken down.¹³¹ All students, except Frederick, complied. Principal Morse confiscated the banner and had Frederick report to her office, where he

¹²⁶ 460 U.S. 37, 103 S.Ct. 948, (1983). *Perry Education Association v. Perry Local Educators' Association*. The Court ruled that a school district's preferential access system whereby the exclusive bargaining agent, but no rival union, is allowed access to interschool mail systems and teacher mailboxes does not violate the First Amendment or the equal protection clause of the Fourteenth Amendment.

¹²⁷ *Supra*. note 107.

¹²⁸ *Id.*

¹²⁹ *Supra*. note 84.

¹³⁰ *Id.*

¹³¹ *Id.* This was consistent with established school policy prohibiting such messages at school events.

was then suspended for 10 days. Principal Morse justified the suspension because she thought it advocated illegal drug use, in violation of school policy.¹³²

The suspension was administratively appealed and upheld by Superintendent Gary Bader. However, Superintendent Bader limited the suspension of Frederick to eight days. The superintendent reasoned that Frederick was not disciplined because the principal disagreed with his message, but because his speech appeared to advocate illegal drug use.¹³³ Relying on *Fraser*, the superintendent concluded that the principal's actions were permissible since the speech intruded upon the work of the schools.¹³⁴

Litigation was then filed by Frederick in The U.S. District Court for the District of Alaska alleging that the school board and Morse had violated his First Amendment rights. The District Court granted summary judgment for the school board and Morse, ruling that they were entitled to qualified immunity and had not infringed upon Frederick's First Amendment rights, and that Morse reasonably interpreted the banner as advocating illegal drug use which was in violation of the school board policy.¹³⁵

The ruling of the District Court was appealed, and the Ninth Circuit Court of Appeals reversed. The court found a violation of Frederick's First Amendment rights because the school punished him without demonstrating that his speech gave rise to a risk of substantial disruption outlined by *Tinker*.¹³⁶

The Supreme Court, upon appeal, reversed the Ninth Circuit Court of Appeals judgment that Morse had violated Frederick's First Amendment rights. The Court acknowledged *Tinker*, *Fraser*, and *Kuhlmeier* by noting that students' First Amendment rights are "applied in light of the special characteristics of the school environment", and schools may regulate some speech "even though the government could not censor similar speech outside the school."¹³⁷ Chief Justice Roberts noted that school principals have a difficult and vitally important job, and the First Amendment does not require schools to tolerate, at school events, student expression that contributes to the dangers

¹³² Id.

¹³³ Id.

¹³⁴ Id.

¹³⁵ Id.

¹³⁶ Id.

¹³⁷ Id.

of illegal drug use.¹³⁸ Justice Thomas, in his concurring opinion, stated, “I think the better approach is to dispense with *Tinker* altogether, and given the opportunity, I would do so.”¹³⁹

Conclusion

Prior to the pervasiveness of the Internet, the standards established by the aforementioned cases covered the majority of the forms student speech may take. However, since the United States Supreme Court has revisited student speech issues only once since the 1988 decision, *Morse v. Frederick*, and has not created a separate standard for Internet-related student speech cases, courts have differed on which standard to apply in Internet-related student speech cases.¹⁴⁰

Focus Areas of Case Law Analysis

The limited guidance that the lower courts have given on the issue of Internet-related student speech is derived primarily from the following cases, each of which relies upon the standards established by the Supreme Court: *Beussink ex rel. Beussink v. Woodland R-IV School District*,¹⁴¹ *Emmett v. Kent School District No. 415*,¹⁴² *Killion v. Franklin Regional School District*,¹⁴³ *J.S. ex rel. H.S. v. Bethlehem Area School District*,¹⁴⁴ *Mahaffey ex rel. Mahaffey v. Aldrich*,¹⁴⁵ *Flaherty v. Keystone Oaks School District*,¹⁴⁶ *Requa v. Kent School District No. 415*,¹⁴⁷ *Wisniewski v. Board of Education of Weedsport Central School District*,¹⁴⁸ *A.B. v. State*,¹⁴⁹ *O.Z. v. Board of Trustees of Long Beach Unified School District*,¹⁵⁰ *Layshock v. Hermitage School District*,¹⁵¹ and

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ Sandy S. Li. *The need for a new, uniform standard: The continued threat to Internet-related student speech* (2005). 26 *Loyola of Los Angeles Entertainment Law Review* 65-106.

¹⁴¹ 30 F. Supp. 2d 1175 (E.D. Mo. 1998). *Beussink ex rel. Beussink v. Woodland R-IV School District*.

¹⁴² 92 F. Supp. 2d 1088 (W.D. Wash. 2000). *Emmett v. Kent School District No. 415*.

¹⁴³ 136 F. Supp. 2d 446 (W.D. Pa. 2001). *Killion v. Franklin Regional School District*.

¹⁴⁴ 807 A 2d 847 (Pa. 2002). *J.S. ex rel. H.S. v. Bethlehem Area School District*.

¹⁴⁵ 236 F. Supp. 2d 779 (E.D. Mich. 2002). *Mahaffey ex rel. Mahaffey v. Aldrich*.

¹⁴⁶ 247 F. Supp. 2d 698 (W.D. Pa. 2003). *Flaherty v. Keystone Oaks School District*.

¹⁴⁷ 492 F. Supp. 2d 1272 (W.D. Wash. 2007). *Requa v. Kent School District No. 415*.

¹⁴⁸ 494 F. 3d 34 (C.A. 2 NY 2007). *Wisniewski v. Board of Education of Weedsport Central School District*.

¹⁴⁹ 885 N.E. 2d 1223 (Ind. 2008). *A.B. v. State*.

¹⁵⁰ Not Reported in F.Supp. 2d, 2008 WL 4396895 (C.D. Cal. 2008). *O.Z. v. Board of Trustees of Long Beach Unified School District*.

J.S. ex rel. Snyder v. Blue Mountain School District.¹⁵² Of the aforementioned litigation, the courts upheld the punishment administered by the school districts in the cases of *J.S. v. Bethlehem*,¹⁵³ *Requa v. Kent*,¹⁵⁴ *Wisniewski v. Weedsport*,¹⁵⁵ and *O.Z. v. Board of Trustees*.¹⁵⁶

In the lower courts decisions, the justices evaluated whether the speech occurred on-campus and whether it caused a substantial disruption, as well as whether a true threat may have existed. Absent affirmative answers to the substantial disruption and true threat questions, off-campus speech by the students received more First Amendment protection than on-campus speech. Although the Supreme Court limited students' speech rights in *Fraser* and *Kuhlmeier*, the lower courts relied more on the *Tinker* standard when they reviewed Internet-related speech. However, in the most recent Supreme Court case related to students' speech rights, *Morse v. Frederick*, the *Tinker* standard has been somewhat eroded.¹⁵⁷ The reduced standard has affected lower courts' decisions regarding student Internet-related speech, evidenced by *Wisniewski v. Weedsport*.¹⁵⁸

In order to determine the veracity of the student speech, the courts must determine whether the student speech rises to the level of a true threat. This determination is based on the case of *Watts v. United States*, in which the Court ruled that true threats fall outside the protection of the First Amendment.¹⁵⁹ In the *Mahaffey ex rel. Mahaffey v. Aldrich* case, the court applied the standard established by *Lovell ex rel. Lovell v. Poway Unified School District*¹⁶⁰ to determine whether a reasonable person

¹⁵¹ 593 F.3d 249 (3rd Cir. 2010). *Layshock v. Hermitage School District*.

¹⁵² 593 F.3d 286 (3rd Cir. 2010). *J.S. ex rel. Snyder v. Blue Mountain School District*.

¹⁵³ Supra. note 144.

¹⁵⁴ Supra. note 147.

¹⁵⁵ Supra. note 148.

¹⁵⁶ Supra. note 150.

¹⁵⁷ Supra. note 139. As evidenced by Justice Thomas' remarks related to overriding the *Tinker* decision in its entirety.

¹⁵⁸ Supra. note 148.

¹⁵⁹ 394 U.S. 705, 89 S. Ct. 1399 (1969). *Watts v. United States*. The Court ruled that petitioner's remark during political debate at small public gathering that, if inducted into Army (which he vowed would never occur) and made to carry a rifle "the first man I want to get in my sights is L.B.J.," held to be crude political hyperbole which, in light of its context and conditional nature, did not constitute a knowing and willful threat against the President.

¹⁶⁰ 90 F. 3d 367 (9th Cir. 1996). *Lovell ex rel. Lovell v. Poway Unified School District*. The court ruled that with prevalent violence in public schools, teachers and administrators must take threats by students very

(speaker) in the student's position could have foreseen that the statement would be interpreted as a serious expression of intent to harm or assault.¹⁶¹ In this instance, the court determined that the student speech did not constitute a true threat.

An alternative standard to the *reasonable speaker standard* has been established by the Eighth Circuit Court. In the case of *Doe v. Pulaski County Special School District*,¹⁶² the court determined that a reasonable recipient would have interpreted that a serious expression of an intent to harm or cause injury to another person constitutes a true threat.¹⁶³ However, the *reasonable recipient standard* is not widely accepted because there is a risk that a speaker's First Amendment rights could be abridged simply because the recipient had an unusual sensitivity unbeknown to the speaker.¹⁶⁴

Analysis of Lower Court Cases

In examining the cases that address Internet-related student speech, it is important to ascertain the merits that each decision was based. Public school districts and public school administrators should attempt to use the rationale given by the courts as a basis for developing policy related to Internet-related student speech and conduct. Public school districts' interests, when developing policy related to Internet-related student speech, are best served when these policies are based on overarching principles that can be gleaned from the decisions handed down by the courts; in particular, courts that have jurisdiction over their geographic location. As such, an analysis of each case follows which focuses on the background of the incidents and judicial rationale in the decisions. The cases are arranged below in chronological order of judicial decision date.

seriously. For this reason petitioner failed to prove that she did not utter the statement that directly and unambiguously threatened physical harm to her guidance counselor.

¹⁶¹ Supra. note 145.

¹⁶² 263 F. 3d 833 (8th Cir. 2001). *Doe v. Pulaski County Special School District*. The court ruled that the Board's decision to expel the petitioner and to eliminate other educational opportunities available to him in the district was unwarranted. Under the totality of the circumstances a reasonable person would not have foreseen that petitioner's composition would have been interpreted by student to communicate a serious expression of intent to hurt her.

¹⁶³ Ibid.

¹⁶⁴ Supra. note 140.

Beussink ex rel. Beussink v. Woodland R-IV School District

The case of *Beussink ex rel. Beussink v. Woodland R-IV School District* was argued in the U.S. District Court for the Eastern District of Missouri. The litigation arose from an incident that occurred in February 1998. Brandon Beussink sued the Woodland School District seeking preliminary injunctive relief. The plaintiff alleged that the discipline imposed on him by the school district had violated his First Amendment speech rights, and the district court agreed.¹⁶⁵

In early February 1998, Brandon Beussink, without utilization of school resources or equipment, created and posted a homepage from his home computer that was highly critical of the Woodland High School administration, teachers, and homepage.¹⁶⁶ Beussink allowed a fellow student, Amanda Brown, to use his home computer, at which time she saw his homepage, although Brown viewed Beussink's homepage without his knowledge or authorization. Brown later had an argument with Beussink and retaliated by showing his homepage to a computer teacher, Delma Ferrell, at Woodland High School.¹⁶⁷ Ferrell was upset by Beussink's homepage and reported it to Yancy Poorman, the school principal, who then viewed Beussink's homepage. Poorman made the decision to discipline Beussink because the homepage had been displayed in a classroom and before Poorman knew if any other students had seen or had knowledge of the homepage.¹⁶⁸ Ferrell allowed several students to access the homepage on two other occasions during the school day with no disruption to her class. Poorman issued two separate disciplinary notices to Beussink. The first notice suspended Beussink for five days and the second notice increased the suspension to ten days.¹⁶⁹ Beussink went to the school office after receiving the second notice at which time Poorman asked him

¹⁶⁵ Supra. note 141.

¹⁶⁶ Id.

¹⁶⁷ Id. At the time Brown accessed the homepage and showed it to Ferrell, there was only one other student in the room. The student did not view the screen and there was no disruption.

¹⁶⁸ Id.

¹⁶⁹ Id. Mr. Bristow and Ms. Talbut both testified that the only disruptions in their classes that day occurred when the disciplinary notices were delivered, but that the delivery of a disciplinary notice always causes a disruption.

to clean up his homepage or clear it out.¹⁷⁰ When Beussink arrived home at the end of the school day, he removed his homepage from the Internet.¹⁷¹

Because of the ten-day suspension, Beussink's final grades for the semester were negatively affected. Before applying the Woodland School District's absenteeism policy, which drops students' grades by one letter for each unexcused absence in excess of ten days, Beussink was failing two classes. As a result of the policy regarding unexcused absences, Beussink ended up failing all classes for the semester.¹⁷²

The court noted that while the Supreme Court made it clear in *Tinker* that students do not shed their First Amendment rights at the schoolhouse gate, a student's free speech rights are not without limitation.¹⁷³ However, any limitation on student speech is permissible only in narrowly defined circumstances, and disliking or being upset by the content of a student's speech is not an acceptable justification for limiting student speech under *Tinker*.¹⁷⁴ The court opined that Beussink's homepage did not materially and substantially interfere with school discipline nor was there any evidence to support a particularized reasonable fear of such interference.¹⁷⁵ The court further stated that individual speech that is unpopular but does not substantially interfere with school discipline is entitled to protection. Indeed, it is provocative and challenging speech, like Beussink's, which is most in need of the protections of the First Amendment.¹⁷⁶

Emmett v. Kent School District No. 415

In the case of *Emmett v. Kent School District No. 415*, which was heard in the U.S. District Court for the Western District of Washington, Nick Emmett requested a temporary restraining order. The court granted his request and prohibited Kentlake High School from suspending Emmett for creating a webpage on the Internet from his home

¹⁷⁰ Id.

¹⁷¹ Id.

¹⁷² Id. The district absenteeism policy drops students' grades in each class by one letter grade for each unexcused absence in excess of ten days. Prior to the suspension, Beussink had 8.5 unexcused absences. The additional ten days of suspension resulted in Beussink's grades being dropped 8.5 grade levels.

¹⁷³ Id.

¹⁷⁴ Id.

¹⁷⁵ Id.

¹⁷⁶ Id.

computer without use of school resources or time.¹⁷⁷ The incident which gave rise to the motion began on February 13, 2000 when Emmett posted a webpage created from his home entitled the “Unofficial Kentlake High Home Page”, and included disclaimers warning visitors that the site was not sponsored by the school and was for entertainment purposes only.¹⁷⁸ Emmett’s webpage contained some commentary on the school administration and faculty. However, the aspects of the site which were at issue consisted of mock “obituaries” of two of Emmett’s friends which were written facetiously and contained a poll on who would “die” next; that is, who would be the subject of the next mock obituary.¹⁷⁹

Emmett’s webpage was featured on an evening television news story on February 16, 2000, which characterized it as having a “hit list” of people to be killed, although the words “hit list” appeared nowhere on the site.¹⁸⁰ Emmett removed the site from the Internet and was called to the principal’s office the following day. He was placed on emergency expulsion for intimidation, harassment, disruption to the educational process, and violation of Kent School District copyright.¹⁸¹ The emergency expulsion was modified to a five-day short-term suspension although no evidence was presented that any student felt threatened by the site, and no evidence was presented that Emmett intended to intimidate or threaten anyone.¹⁸² The suspension began on Friday, February 18, 2000, and was to run from February 18 through March 1, 2000 due to a student vacation. The suspension also prohibited his participation in school sports, including basketball practice on February 23, 2000, and a playoff game scheduled for February 24, 2000.¹⁸³

The court acknowledged the Supreme Court’s decisions in *Tinker*, *Fraser*, and *Kuhlmeier* and noted that Emmett’s speech was not delivered at a school assembly, as in *Fraser*. It was not contained in a school-sponsored newspaper, as in *Kuhlmeier*, and was not produced in connection with any class or school project. The speech was

¹⁷⁷ Supra. note 142.

¹⁷⁸ Id.

¹⁷⁹ Id.

¹⁸⁰ Id.

¹⁸¹ Id.

¹⁸² Id.

¹⁸³ Id.

entirely outside of the school's supervision or control.¹⁸⁴ The court further stated that the student distribution of non-school-sponsored material cannot be prohibited "on the basis of undifferentiated fears of possible disturbances or embarrassment to school officials" as noted in *Burch v. Barker*.¹⁸⁵ In addition, the out-of-school nature of the speech, would indicate Emmett has a substantial likelihood of success on the merits of his claim.¹⁸⁶

Killion v. Franklin Regional School District

The litigation in *Killion v. Franklin Regional School District*, stemmed from an incident that began in March 1999 when Zachariah Paul, a student at Franklin Regional High School, who was upset about being denied a student parking pass coupled with the imposition of rules and regulations for members of the track team, compiled a "Top Ten" list about athletic director, Robert Bozzuto.¹⁸⁷ The case was brought by Joanne Killion, Paul's mother, in U.S. District Court for the Western District of Pennsylvania who sought summary judgment claiming that the Franklin Regional School District had violated Paul's First Amendment right of free expression by suspending Paul for speech that was made off school grounds and in the privacy of his home.¹⁸⁸

The incident began when the list, which contained derogatory comments about Bozzuto's appearance, including the size of his genitals, was composed and assembled by Paul at home after school hours. Paul sent the list by email from his home computer to several of his friends. However, he did not print or copy the list to bring to school premises because he had been warned that he would be punished if he brought such a list to school.¹⁸⁹ However, several weeks later, copies of the Bozzuto list were found in the Franklin Regional High School teachers' lounge and at other locations at the Franklin Regional Middle School. Another student had reformatted Paul's original email and distributed it on school grounds.¹⁹⁰

¹⁸⁴ Id.

¹⁸⁵ 861 F. 2d 1149 (9th Cir. 1988). *Burch v. Barker*. The court held that a school could not require prior approval for a student newspaper produced outside the school before it was distributed on school grounds to students.

¹⁸⁶ Supra. note 142. The court found that missing four additional days of school and sporting events was a sufficient showing of irreparable injury.

¹⁸⁷ Supra. note 143.

¹⁸⁸ Id.

¹⁸⁹ Id.

¹⁹⁰ Id.

On May 3, 1999, Paul was called to a meeting with Richard Plutto, principal, Thomas Graham, assistant principal, and Richard Bozzuto, athletic director, concerning the “Top Ten” list. Paul admitted to composing the list and sending it by email to friends from his home computer. However, he denied bringing the list to school.¹⁹¹ Paul was instructed to bring a copy of the original email the next day, and he was allowed to return to class.¹⁹² The next day, Paul was called to the office for another meeting. Paul called his mother, who met him there, to meet with Graham and Bozzuto. Graham showed Mrs. Killion the list and informed her that Paul would be suspended for ten days during which time he would not be able to participate in any school-related activities based upon “verbal/written abuse of a staff member”.¹⁹³ On May 12, 1999, Plutto and Graham met with Killion and Paul for a suspension hearing which resulted in affirmation of the ten-day suspension.¹⁹⁴

The court noted *Tinker* and subsequent decisions, specifically *Beussink ex rel. Beussink v. Woodland R-IV School District*¹⁹⁵ and *Emmett v. Kent School District No. 415*,¹⁹⁶ and found that Paul’s suspension violated the First Amendment because of its failure to meet the substantial disruption test.¹⁹⁷ Further, the court indicated that there is no evidence that teachers were incapable of teaching or controlling their classes because of the Bozzuto list. Indeed, the list was on school grounds for several days before the administration became aware of its existence, and at least one week passed before they took any action.¹⁹⁸ The court also addressed *Fraser* concerning the district’s argument that the suspension was appropriate because Paul’s speech was lewd and obscene, and relied on Justice Brennan’s concurring opinion from *Fraser*, “If the respondent had given the same speech outside of the school environment, he could not

¹⁹¹ Id.

¹⁹² Id.

¹⁹³ Id.

¹⁹⁴ Id. Prior to the suspension hearing, petitioner commenced an action against the school district seeking immediate reinstatement. The parties entered a settlement agreement wherein petitioner agreed to withdraw the complaint in exchange for the district’s agreement to provide petitioner with the due process outlined in the Pennsylvania School Code.

¹⁹⁵ Supra. note 141.

¹⁹⁶ Supra. note 142.

¹⁹⁷ Supra. note 143. Defendants attempted to support an exception of disruption defense by arguing petitioner had created similar lists in the past. However, petitioner had never been disciplined for the earlier lists. Absent evidence establishing disruption flowing from the earlier lists, defendants failed to establish there was substantial reason to anticipate disruption.

¹⁹⁸ Id.

have been penalized simply because government officials considered his language to be inappropriate.”¹⁹⁹

J.S. ex rel. H.S. v. Bethlehem Area School District

The Supreme Court of Pennsylvania heard the case of *J.S. ex rel. H.S. v. Bethlehem Area School District* upon appeal by the student and parents. The incident which gave rise to the litigation occurred in the spring of 1998. J.S. and his parents sought review of the school district’s decision to permanently expel him based on his creation, at home, of an Internet website containing threatening and derogatory comments about a teacher and the principal stating that the expulsion had violated his First Amendment right to freedom of speech.²⁰⁰

In the spring of 1998, J.S., an eighth grade student at Nitschmann Middle School, created a website entitled “Teacher Sux” that consisted of a number of web pages that made derogatory, profane, offensive, and threatening comments about his algebra teacher, Kathleen Fulmer and Nitschmann Middle School principal, Thomas Kartsois.²⁰¹ Specifically, one of the webpages regarding Fulmer was captioned, “Why Should She Die?”.²⁰² The page requested the readers to “Take a look at the diagram and the reasons I gave, then give me \$20 to help pay for the hit man.” Below the statement questioning why Fulmer should die, the page offered “Some Words from the writer” and listed 136 times “F*** You Mrs. Fulmer. You are A B****. You Are A Stupid B****.”²⁰³ Another page contained a drawing of Fulmer with her head cut off and blood dripping from her neck.²⁰⁴

J.S. told other students about the website and showed it to another student at school. Other students viewed the website, as well as faculty and administrators of the school district. An instructor at Nitschmann Middle School reported its existence to Kartsois who proceeded to view portions of the website. Kartsois, believing the threats to be serious, contacted local police and the FBI, and both agencies identified J.S. as

¹⁹⁹ Id.

²⁰⁰ Supra. note 144.

²⁰¹ Id. The website also contained pages that made similarly objectionable comments about Mrs. Maria Spaight, German teacher at Nitschmann Middle School.

²⁰² Id.

²⁰³ Id.

²⁰⁴ Id.

the site creator. However, law enforcement officials declined to file charges against J.S.²⁰⁵ Kartsotis informed Fulmer of the site's existence, and after viewing the site, Fulmer stated that she was frightened, fearing someone would try to kill her.²⁰⁶ Fulmer suffered stress, anxiety, loss of appetite, loss of sleep, and loss of weight as a result of viewing the site and was prescribed, by her physician, anti-anxiety/anti-depressant medication.²⁰⁷ Fulmer was unable to return to school to finish the school year and applied for medical leave which was granted. As a result, three substitute teachers were required to replace Fulmer which disrupted the educational process of the students.²⁰⁸ Kartsotis testified that the website had a demoralizing impact on the school community comparable to that of the death of a student or staff member.²⁰⁹

During the remainder of the school year, J.S. continued to attend classes and participate in extra-curricular activities. The school district did not request that J.S. remove the site, took no action to confront or to punish J.S., nor did the school district refer J.S. for any type of psychological evaluation.²¹⁰ However, J.S. did remove the site approximately one week after Kartsotis became aware of its existence.²¹¹

On July 30, 1998, the school district sent a letter to J.S. and his parents informing them that it intended to suspend J.S. for three days. The district asserted that J.S. had violated school district policy by threatening a teacher, harassing a teacher and principal, and disrespecting a teacher and principal, each resulting in actual harm to the health, safety, and welfare of the school community.²¹² After the suspension hearing, the school district opted to extend the suspension to ten days. Shortly thereafter, the school district began expulsion proceedings against the student.²¹³ The school district voted to expel J.S. who subsequently appealed, through his parents, the determination to the Court of Common Pleas of Northhampton County arguing that the district had

²⁰⁵ Id.

²⁰⁶ Id.

²⁰⁷ Id.

²⁰⁸ Id.

²⁰⁹ Id.

²¹⁰ Id.

²¹¹ Id.

²¹² Id.

²¹³ Id. The expulsion hearings were conducted on August 19 and 26, 1998. However, by that time, the parents of J.S. had enrolled the student in an out-of-state school for the coming year. Thus, J.S. was unable to attend the August 26, 1998 hearing.

violated the student's First Amendment rights.²¹⁴ The court affirmed the school district's decision, and J.S., through his parents, appealed to the Commonwealth Court which affirmed.²¹⁵

The court, first examined if the statements made by J.S. on his website constituted a true threat. This determination was based upon the decisions rendered in *Watts v. United States*²¹⁶ and *Lovell ex rel. Lovell v. Poway Unified School District*.²¹⁷ The court opined that the lack of immediate steps taken directly against J.S., and the lack of immediate notification of his parents about the website, strongly countered a conclusion that the statements made in the website constituted true threats.²¹⁸ Absent the presence of a true threat, the court determined the location of the speech. In examining *Beussink ex rel. Beussink v. Woodland R-IV School District*,²¹⁹ *Emmett v. Kent School District No. 415*,²²⁰ and *Killion v. Franklin Regional School District*,²²¹ The court noted that few courts have considered whether the off-campus posting of email or a website and the accessing of the email or website at school, constitutes either on-campus or off-campus speech.²²² However, in this case, there is a sufficient nexus between the website and the school campus to consider the speech as occurring on-campus.²²³ The court then turned to the *Tinker*, *Fraser*, and *Kuhlmeier* decisions in addressing whether the school district had violated the student's First Amendment rights. The court noted that even after the threshold consideration of the location of the speech is established, the type of speech, the unique setting and manner in which the speech was circulated, and the personal nature of the speech made it difficult to apply

²¹⁴ Id.

²¹⁵ Id. The court concluded that courts have permitted school officials to discipline students for conduct occurring off school premises where the conduct materially and substantially interferes with the educational process.

²¹⁶ Supra. note 159.

²¹⁷ Supra. note 160.

²¹⁸ Supra. note 144.

²¹⁹ Supra. note 141.

²²⁰ Supra. note 142.

²²¹ Supra. note 143.

²²² Supra. note 144.

²²³ Id. The court held that it was inevitable that the contents of the website would pass from students to teachers, inspiring circulation of the webpage on school property. Thus, where speech that is aimed at a specific school and/or its personnel is brought onto the school campus or accessed at school by its originator, the speech is considered on-campus speech.

any one of the three noted Supreme Court cases.²²⁴ The court stated that the simple armbands, worn silently and brought into a Des Moines classroom, have been replaced by J.S.'s complex multi-media website, accessible to fellow students, teachers, and the world.²²⁵ The court concluded that whether the facts before us are more aligned with the events in *Fraser* and governed by the lewd and plainly offensive speech analysis, or are more akin to the situation in *Tinker* and thus subject to review for substantial disruption of the work of the school, we need not definitively decide, for application of either case results in a determination in favor of the school district.²²⁶

Mahaffey ex rel. Mahaffey v. Aldrich

The case of *Mahaffey ex rel. Mahaffey v. Aldrich* was argued in the U.S. District Court for the Eastern District of Michigan and arose from an incident that began in summer of 2001. Joshua Mahaffey, through his parents, sued Peni Aldrich and the Waterford School District seeking summary judgment alleging that the discipline imposed on him by the school district had violated his First Amendment speech rights, as well as his due process rights under the Fourteenth Amendment.²²⁷

During the summer of 2001, Mahaffey, a student at Waterford Kettering High School, along with another student from Kettering, created a website entitled "Satan's web page".²²⁸ The website listed "people I wish would die," people that are cool," along with other thoughts.²²⁹ The following statement was included near the bottom of the webpage:

SATAN'S MISSION FOR YOU THIS WEEK: Stab someone for no reason then set them on fire throw them off of a cliff, watch them suffer and with their last breath, just before everything goes black, spit on their face. Killing people is wrong don't do It [sic]. unless [sic] Im [sic] there to watch. ____ Or just go to Detroit. Hell is right in the middle. Drop by and say hi.

²²⁴ Id.

²²⁵ Id.

²²⁶ Id.

²²⁷ Supra. note 145.

²²⁸ Id.

²²⁹ Id.

PS: NOW THAT YOU'VE READ MY WEB PAGE PLEASE DON'T GO KILLING PEOPLE AND STUFF THEN BLAMING IT ON ME. OK?.²³⁰

A parent of a Kettering student found the website and notified the police who then notified Kettering High School. When police interviewed Mahaffey, he admitted to contributing to the website and stated that Kettering computers may have been used to create the website.²³¹ Carol Baldwin, principal of Kettering High School, then indefinitely suspended Mahaffey for his contributions to the website.²³²

On August 28, 2001, following a meeting regarding the website at the police department, Mahaffey began his suspension.²³³ Baldwin then notified Mahaffey's parents on September 7, 2001 that she was recommending Mahaffey be expelled from the Waterford School District for violating the following regulations: Behavior dangerous to self and others, Internet violations, and intimidation and threats.²³⁴ After several hearings, Aldrich notified Mahaffey's parents on November 27, 2001, that she had reconsidered and was not recommending expulsion.²³⁵ She had reclassified Mahaffey's violation to that of intimidation and threats so that he could reenroll starting the second semester on January 21, 2001.²³⁶ Mahaffey did not reenroll in the Waterford School District, but enrolled in the Pontiac School District and later graduated.²³⁷

In finding for Mahaffey, the court relied primarily on the *Tinker* decision in determining whether Mahaffey's First Amendment rights had been violated, and opined that the *Tinker* Court dealt with student activities that occurred on school property. The evidence at bar simply did not establish that any of the complained of conduct occurred on Kettering property.²³⁸ Further, the court noted that even assuming that the conduct in question did occur on Kettering property; defendants may only punish Mahaffey for his

²³⁰ Id.

²³¹ Id.

²³² Id.

²³³ Id.

²³⁴ Id.

²³⁵ Id. During this time, prior to original hearing date of September 20, 2001, Plaintiff withdrew from, then re-enrolled in district school. The expulsion hearing was held on October 17, 2001 pursuant to the Waterford School District Discipline Hearing Protocol.

²³⁶ Id.

²³⁷ Id.

²³⁸ Id. The court noted that the only evidence put forth by the Defendants in support of activity occurring on school property is the Plaintiff's equivocal statement made to an investigating police officer that some of the website creation "may have" taken place on Kettering computers.

speech on the website if that speech substantially disrupted the work of the school or impinged upon the rights of other students. There was no evidence that the website did that.²³⁹ The court also examined whether the speech contained in the website constituted a true threat. In noting *Lovell ex rel. Lovell v. Poway Unified School District*²⁴⁰ and *Doe v. Pulaski County Special School District*,²⁴¹ the court stated Mahaffey's listing of names under the heading "people I wish would die," did not constitute a threat to the people listed therein anymore than Mahaffey's listing of names under the heading "people that are cool," make those listed therein "cool".²⁴²

Flaherty v. Keystone Oaks School District

The litigation in *Flaherty v. Keystone Oaks School District* commenced following disciplinary action taken against Jack Flaherty, Jr. for posting Internet messages on a website message board. The case was heard in U.S. District Court for the Western District of Pennsylvania when Flaherty's parents, on behalf of Flaherty, alleged that certain policies in the Keystone Oaks High School handbook were unconstitutionally vague and overbroad in violation of the First and Fourteenth Amendments.²⁴³

The disciplinary action against Flaherty stemmed from his involvement in an Internet message board conversation regarding a volleyball game with Baldwin High School. Flaherty posted three messages from his parents' home and one from school.²⁴⁴ Keystone Oaks contended that Flaherty's posts, which included statements about a faculty member at Keystone Oaks and a student from Baldwin High School, violated policies contained in the Keystone Oaks High School Student Handbook.²⁴⁵

The sections of the student handbook follow (bold emphasis in original):

Discipline Infractions and Consequences: Attack - (physical, verbal, or written abuse directed toward a school employee) Harassment - (sexual, ethnic, racial, physical, verbal) Harassment is defined as any ongoing pattern of abuse, whether physical or verbal. Inappropriate language/verbal abuse (may be

²³⁹ Id.

²⁴⁰ Supra. note 160.

²⁴¹ Supra. note 163.

²⁴² Supra. note 145.

²⁴³ Supra. note 146.

²⁴⁴ Id.

²⁴⁵ Id.

considered “Attack”) toward an employee. Inappropriate language/verbal abuse toward another student.²⁴⁶

Student Responsibilities: It is the responsibility of the student to: express ideas and opinions in a respectful manner so as not to offend or slander others; Technology abuse – use of computers to receive, create or send abusive, obscene, or inappropriate material and/or messages;²⁴⁷

The court noted that Flaherty argues that the policies are overbroad and vague because they can be interpreted to prohibit speech that is protected by the First Amendment in violation of the substantial disruption test contained in *Tinker*.²⁴⁸ Following an extensive review of the record, the court agreed with Flaherty,²⁴⁹ and opined that while Scott Hagy, principal of Keystone Oaks High School, believed that he could discipline a student for bringing “disrespect, negative publicity, negative attention to our school and to our volleyball team,” the facts in this case are simply not sufficient to rise to the level of “substantial disruption”.²⁵⁰ The court further opined that the student handbook policies do not contain any geographical limitations. Thus, the policy could be read to cover speech that occurs off the school’s campus and are not school related. Therefore, the policies are unconstitutionally overbroad and vague.²⁵¹

Requa v. Kent School District No. 415

Gregory Requa sued Kent School District No. 415 in the case of *Requa v. Kent School District No. 415*, alleging that his suspension for his alleged involvement in creating and posting of an offensive video portraying his teacher violated his First Amendment speech rights. In the case, heard in U.S. District Court for the Western District of Washington, Requa requested a temporary restraining order enjoining the

²⁴⁶ Id.

²⁴⁷ Id.

²⁴⁸ Id. Chief Judge Ambrose noted that the Supreme Court has never held that a statute should be invalidated merely because it is possible to conceive of a single impermissible application. In a facial challenge to overbreadth and vagueness of a law, a court must determine whether the enactment reaches a substantial amount of constitutionally protected conduct.

²⁴⁹ Id. A school district can justify a policy where it can demonstrate a concrete threat of substantial disruption that is linked to a history of past events. However, to do so, the policy must have been created as a result of the past history of events. Chief Judge Ambrose noted that the district’s policies were not developed as a result of Plaintiff’s actions.

²⁵⁰ Id.

²⁵¹ Id.

defendants from enforcing the long-term suspension during the course of the suit and ordering them to reinstate him at school with no penalty.²⁵²

The incident that gave rise to the litigation took place during the spring of 2006. At this time, video footage was taken on at least two separate occasions of a teacher at Kentridge High School.²⁵³ The video and audio footage was edited together, graphics and a musical soundtrack were added, and the results were posted on YouTube.com.²⁵⁴ The video included commentary on the teacher's hygiene and organization habits, as well as shots of the teacher's buttocks as she walks away for the videographer and bends over. The music accompanying these shots is a song titled "Ms. New Booty".²⁵⁵

Requa admitted to posting a link to the YouTube.com location of the video on his MySpace.com webpage in June 2006.²⁵⁶ There was no allegation that the existence of the video disrupted the educational process at Kentridge, as computers at the school prevent accessing such websites.²⁵⁷ On February 14, 2007, a local news channel aired a segment featuring the video and others that were critical of high school teachers. Upon learning of the news coverage and the possibility that the video could be viewed as harassment, Requa removed the link to the video from his MySpace.com webpage.²⁵⁸ After the news segment aired, Michael Albrecht, principal, initiated an investigation to discover the persons responsible for the video. Requa was identified by three students as being involved in the filming of the video, to which Requa denied any involvement in any filming, editing, or posting of the video.²⁵⁹ Requa claimed he only put a link to the video on his MySpace.com webpage which he removed upon learning that it might subject him to disciplinary sanctions.²⁶⁰

On February 15, 2007, Albrecht sent letters to the parents of the students whom he had determined were responsible for the video advising them that disciplinary action was being taken against the students in the form of a 40-day suspension, with 20 days

²⁵² Supra. note 147.

²⁵³ Id.

²⁵⁴ Id.

²⁵⁵ Id.

²⁵⁶ Id.

²⁵⁷ Id.

²⁵⁸ Id.

²⁵⁹ Id.

²⁶⁰ Id.

“held in abeyance” if they completed a research paper while serving the suspension.²⁶¹ Requa requested a hearing which was held on March 9, 2007. The hearing officer found that the appropriate policies and procedures had been followed in issuing the discipline and upheld the sanctions.²⁶² Requa appealed the decision to the school district’s Board of Directors.²⁶³ On April 25, 2007, the Board of Directors conducted a proceeding and then notified Requa that his suspension was upheld.²⁶⁴ The Board of Directors noted that the discipline was appropriate and should be upheld based on the conduct of the students involved, i.e., secretly recording the teacher in at least two ways that constitute sexual harassment; and that such conduct had occurred on school grounds during class.²⁶⁵ Further, the Board of Directors stated that the punishment in this case was not for the purpose of regulating “speech” created off-campus.²⁶⁶

In holding for the school district, the court wrote that there is not evidence to support the theory that the reasons given for the discipline imposed by the school district were a pretext for an underlying desire to punish Requa for exercising his rights to free speech away from campus.²⁶⁷ The court also noted that the school district did not demand that Requa remove the YouTube.com link from his webpage, nor did his punishment include a prohibition against re-posting the link at any point.²⁶⁸ In citing *Tinker*²⁶⁹ and *Fraser*,²⁷⁰ the court stated that the holdings in these cases can be applied to the facts before this court and under either rationale; the filming of the footage at issue here did not constitute “protected speech”. The court agreed with the *Fraser* Court that “...the penalties imposed in this case were unrelated to any political viewpoint”. The First Amendment does not prevent the school officials from determining that to permit a vulgar and lewd speech such as this would undermine the school’s basic educational

²⁶¹ Id. All students deemed to be participants received the same penalties.

²⁶² Id.

²⁶³ Id. The author recognizes that typically, governing bodies of local education agencies are called school boards. However, the governing body of this local education agency is labeled as Board of Directors.

²⁶⁴ Id.

²⁶⁵ Id.

²⁶⁶ Id.

²⁶⁷ Id.

²⁶⁸ Id.

²⁶⁹ Supra. note 81.

²⁷⁰ Supra. note 82.

mission.”²⁷¹ The court further opined that the school district is not required to establish that an actual educational discourse was disrupted by the student’s activity. The “work and discipline of the school” includes the maintenance of a civil and respectful atmosphere toward teachers and students alike. Demeaning, derogatory, sexually suggestive behavior toward an unsuspecting teacher in a classroom poses a disruption of that mission whenever it occurs.²⁷²

Wisniewski v. Board of Education of Weedsport Central School District

The case of *Wisniewski v. Board of Education of Weedsport Central School District* arose out of an Internet transmission, from his parents’ home computer, by Aaron Wisniewski, an eighth grade student at Weedsport Middle School, in April 2001. The Second Circuit Court of Appeals heard the case on appeal by Wisniewski’s parents who claimed the student’s suspension violated his First Amendment rights.²⁷³

The incident that gave rise to the litigation in this case occurred in April 2001 when Wisniewski used America On-Line (AOL) Instant Messaging (IM) software on his parents’ home computer to interact with other members on his “buddy list”.²⁷⁴ The AOL system employs an icon that serves as an identifier of the sender. In addition to the sender’s name, was a small drawing of a pistol firing a bullet at a person’s head, above which were dots representing splattered blood.²⁷⁵ Beneath the drawing appeared the words “Kill Mr. VanderMolen.”, Wisniewski’s English teacher at the time.²⁷⁶ Wisniewski created the icon after his class was instructed that threats would not be tolerated by the school, and would be treated as acts of violence.²⁷⁷ Wisniewski sent messages displaying the icon to 15 members of his “buddy list”, but not to VanderMolen or any school official.²⁷⁸ The icon was available for viewing by Wisniewski’s “buddies” for three weeks, at least some of whom were classmates at Weedsport Middle School.²⁷⁹ During this time, another classmate informed VanderMolen of Wisniewski’s icon and later

²⁷¹ Id.

²⁷² Supra. note 147.

²⁷³ Supra. note 148.

²⁷⁴ Id.

²⁷⁵ Id.

²⁷⁶ Id.

²⁷⁷ Id.

²⁷⁸ Id.

²⁷⁹ Id.

supplied him with a copy. VanderMolen, distressed by the icon, notified the high school and middle school principals, who informed the local police, the Superintendent, and Wisniewski's parents.²⁸⁰ Wisniewski acknowledged that he had both created and sent the icon to his friends, and he expressed regret to the school principals. Subsequently, he was suspended for five days, after which he was allowed back in school, pending a superintendent's hearing.²⁸¹ In addition, VanderMolen asked and was allowed to cease teaching the class attended by Wisniewski.²⁸² During the same time period, police concluded that the icon was meant as a joke, and that Wisniewski posed no real threat to VanderMolen. As such, a pending criminal case was closed.²⁸³ Wisniewski was also evaluated by a psychologist who found that he had no violent intent, posed no actual threat, and made the icon as a joke.²⁸⁴

In May 2001, a superintendent's hearing, regarding the proposed long-term suspension of Wisniewski, was held before a designated hearing officer concerning the charge of endangering the health and welfare of other students and staff at the school.²⁸⁵ The hearing officer concluded that Wisniewski did commit the act of threatening a teacher, in violation of the student handbook, creating an environment threatening the health, safety and welfare of others, and his actions created a disruption to the school environment.²⁸⁶ The hearing officer recommended a one-semester suspension for Wisniewski which the school district's Board of Education approved.²⁸⁷ Wisniewski was suspended for the first semester of the 2001-2002 school year although the school district afforded him alternative education services. Wisniewski returned to school for the spring semester.²⁸⁸

²⁸⁰ Id.

²⁸¹ Id.

²⁸² Id.

²⁸³ Id.

²⁸⁴ Id.

²⁸⁵ Id.

²⁸⁶ Id. The hearing officer, Lynda VanCoske, acknowledged the opinions of the police investigator and the psychologist that noted Wisniewski did not intend to harm VanderMolen and that he did not pose any real threat, but stated that the intent is irrelevant. Citing the evidentiary standard followed in New York, substantial and competent evidence exists that Wisniewski did commit the act of threatening a teacher.

²⁸⁷ Id.

²⁸⁸ Id.

In November 2002, Wisniewski's parents filed suit on his behalf against the school district claiming that his First Amendment rights had been violated.²⁸⁹ In June 2006, the district court granted summary judgment for the school district noting that the hearing officer had made a factual determination, entitled to preclusive effect, that the icon did pose a threat and, as such, his actions were not protected by the First Amendment.²⁹⁰ The district court further found that the icon was reasonably to be understood as a "true threat" and lacked First Amendment protection.²⁹¹

In granting appeal to Wisniewski, the Second Circuit Court of Appeals affirmed the district court's determination. The court noted that school officials have significantly broader authority to sanction student speech than the *Watts* standard allows.²⁹² The court further noted that the appropriate First Amendment standard is the one set forth by the Supreme Court in *Tinker*.²⁹³ The court opined that even if the icon were viewed as an expression of opinion within the meaning of *Tinker*, it crossed the boundary of protected speech and constituted student conduct that posed a reasonably foreseeable risk of disruption.²⁹⁴ The court further stated that the fact that Wisniewski's creation and transmission of the icon occurred away from school property did not necessarily insulate him from school discipline. It has been recognized that off-campus conduct can create a foreseeable risk of substantial disruption within a school.²⁹⁵

A.B. v. State

The case of *A.B. v. State* was heard by the Supreme Court of Indiana on transfer from the Indiana Court of Appeals. The incident in question commenced following the discovery of a vulgar tirade posted by A.B. on MySpace.com during February 2006, regarding Shawn Gobert, principal of Greencastle Middle School, and his enforcement of school policy.²⁹⁶ A.B. was originally ruled by the Putnam Circuit Court as a delinquent child resulting from her postings on MySpace.com. The Court of Appeals reversed,

²⁸⁹ Id.

²⁹⁰ Id.

²⁹¹ Id.

²⁹² Supra. note 159.

²⁹³ Supra. note 81.

²⁹⁴ Supra. note 148.

²⁹⁵ Id.

²⁹⁶ Supra. note 149.

concluding that A.B.'s allegedly harassing messages were protected political speech.²⁹⁷ The Supreme Court of Indiana disagreed with this rationale, and granted transfer.²⁹⁸

The events that gave rise to the litigation in *A.B. v. State* began in February 2006 when Gobert learned from some of his students of the postings made by A.B., a former Greencastle Middle School student, on MySpace.com.²⁹⁹ Upon investigation, Gobert discovered a fake "Mr. Gobert" profile on which A.B. had posted a vulgarity-laced tirade directed against him. The profile was created by R.B., a friend of A.B. and current student at Greencastle Middle School, who set the profile to private and allowed access to 26 friends, one of whom was A.B.³⁰⁰ Thereafter, A.B. created her own page on MySpace.com, accessible by the general public, and titled with a vulgar expletive directed to Gobert and the Greencastle schools.³⁰¹

As a result of these events, delinquency proceedings were initiated against A.B. alleging misconduct by A.B., a minor, that if committed by an adult, would constitute Harassment, a class B felony pursuant to Indiana Code § 35-45-2-2(a)(4).³⁰² The counts alleged that she committed harassment by transmitting the following via computer network:

"hey you piece of greencastle s***. What the f*** do you think of me know [sic] that you cant [sic] control me? huh? ha ha ha guess what ill [sic] wear my f***ing piercings all day long and to school and you cant [sic] do s*** about it.! ha ha f***ing ha! stupid b*****d!"³⁰³

The counts also alleged Harassment based on A.B.'s transmission of "die...gobert...die" and "F*** MR. GOBERT AND GC SCHOOLS!".³⁰⁴ As indicated above, the circuit court adjudicated A.B. as a delinquent child for her postings on MySpace.com, and the Court of Appeals reversed, concluding that A.B.'s allegedly harassing messages were protected political speech.³⁰⁵

²⁹⁷ Id.

²⁹⁸ Id.

²⁹⁹ Id.

³⁰⁰ Id.

³⁰¹ Id.

³⁰² Code of Indiana § 35-45-2-2(a)(4). Harassment "obscene message" defined. Retrieved November 15, 2009, from <http://www.in.gov/legislative/ic/code/title35/ar45/ch2.html>.

³⁰³ Supra. note 149.

³⁰⁴ Id.

³⁰⁵ Id.

In disagreeing with the rationale of the Court of Appeals, the Supreme Court of Indiana granted transfer, and also reversed the circuit court's decision. The Supreme Court of Indiana determined that the State failed to prove the statutory elements required to prove the felony offense of Harassment.³⁰⁶ The court noted that since this site was publicly accessible, it may be reasonably inferred that A.B. had a subjective expectation that her words would reach Gobert, but this alone does not establish the "intent element" specified in the Harassment statute.³⁰⁷ The court further noted that to commit the offense of Harassment, a person must have "the intent to harass, annoy, or alarm another person but with no intent of legitimate communication".³⁰⁸ The court opined that the content of the posting presents strong evidence that A.B. intended her group page as legitimate communication of her anger and criticism of the disciplinary action of Gobert and Greencastle Middle School taken against her friend.³⁰⁹ Additionally, the court stated this affirmative proof makes it impossible for the State to have carried its burden to prove no intent of legitimate communication.³¹⁰

O.Z. v. Board of Trustees of Long Beach Unified School District

The incident that gave rise to the case of *O.Z. v. Board of Trustees of Long Beach Unified School District* began in March 2008 when O.Z., a student at Hughes Middle School, along with a fellow classmate created a slide show dramatization of the murder of their English teacher, Mrs. Rosenlof, and then posted it on YouTube.com.³¹¹ O.Z. was suspended and given a transfer to another school.³¹² O.Z. filed an Application for Temporary Restraining Order and a Motion for Preliminary Injunction against the school district.³¹³

In March 2008, O.Z. and a fellow classmate created a slide show depicting the murder of their English teacher, Mrs. Rosenlof. Throughout the slide show, there were photos of O.Z. dressed in a costume, and depicting a woman meant to resemble Mrs.

³⁰⁶ Id.

³⁰⁷ Id.

³⁰⁸ Id.

³⁰⁹ Id.

³¹⁰ Id.

³¹¹ Supra. note 150.

³¹² Id.

³¹³ Id.

Rosenlof.³¹⁴ Each slide included red text describing the scene. The texts include “Mrs. Rosenlof dies”, “Jelly Donut’s knife: haha fat b*****d. here i come!”, “hehehe. i’m a shank yooooooooooooo!” and, “your [sic] dead, B*****! :D”.³¹⁵ On May 23, 2008, Rosenlof, working from her home computer, performed a Goggle search of her name to see if any information could be obtained.³¹⁶ Rosenlof discovered a YouTube.com slide show video entitled “[O.Z.] Kills Mrs. Rosenlof”. The description of the slide show stated: “[O.Z.], a student of Ms. Rosenlof, kills her over YouTube somehow. This video shows the video of Ms. Rosenlof dying. This was made by [O.Z.] and [Student 2] in her first and second period classes”.³¹⁷ Rosenlof was allegedly upset by the video, became ill, and was unable to sleep for several nights.³¹⁸ On May 24, 2008, Rosenlof sent an email to her principal at Hughes Middle School informing him of the video. An investigation was conducted by the principal who then spoke to O.Z. and her mother.³¹⁹ On May 27, 2008, after the conference with O.Z. and her mother, the principal recommended that O.Z. be suspended and transferred to another school.³²⁰ The parents opposed the transfer and requested a hearing that was granted before an Administrative Review Panel.³²¹

On June 19, 2008, a hearing was conducted, and the review panel decided to uphold the principal’s decision to transfer O.Z. to another school.³²² O.Z. was notified during the week of August 18, 2008 that she would be attending Hoover Middle School, and her parents enrolled her on August 27, 2008.³²³ On August 29, 2008, a Temporary Restraining Order seeking to compel the school district to place O.Z. back at Hughes Middle School was requested and denied.³²⁴ O.Z. then requested a preliminary injunction, seeking an order from the court requiring the school district to reenroll O.Z., and let her complete her eighth-grade year at Hughes Middle School.³²⁵

³¹⁴ Id.

³¹⁵ Id.

³¹⁶ Id.

³¹⁷ Id.

³¹⁸ Id.

³¹⁹ Id.

³²⁰ Id. The parents initially agreed to the transfer, but later objected.

³²¹ Id.

³²² Id. The parents were advised of the decision of the Administrative Review Panel via written correspondence dated June 20, 2008.

³²³ Id.

³²⁴ Id.

³²⁵ Id.

The court denied O.Z.'s Motion for Preliminary Injunction in which she argued that the slide show was protected speech under the First Amendment. The court stated with respect to school officials' authority to discipline a student's expression reasonably understood as threatening violent conduct, the appropriate First Amendment standard is the one set forth in *Tinker*.³²⁶ In noting the similarities of this case and *Wisniewski v. Board of Education of Weedsport Central School District*,³²⁷ the court in quoting from *Wisniewski*, noted that even if transmission of an icon depicting and calling for the killing of the teacher could be viewed as an expression of opinion within the meaning of *Tinker*, it crosses the boundary of protected speech.³²⁸ The court noted that the school's actions not only discipline O.Z., but also protect the teacher and address safety concerns.³²⁹ The court further noted that if anything had happened to Rosenlof, either a physical attack by O.Z. or ridicule by other students, it would substantially disrupt the school's activities. These are just some of the facts that might reasonably lead school officials to forecast substantial disruption.³³⁰ The court opined that the fact that O.Z. created and transmitted the slide show away from school property does not insulate her from school discipline as recognized in *Wisniewski*.³³¹ Additionally, the court opined that although O.Z. created the slide show off-campus, it created a foreseeable risk of disruption within the school.³³²

Layshock v. Hermitage School District and J.S. ex rel. Snyder v. Blue Mountain School District

The United States Court of Appeals for the Third Circuit vacated the opinions in the cases of *Layshock v. Hermitage School District*³³³ and *J.S. ex rel. Snyder v. Blue Mountain School District*³³⁴ and granted a rehearing of both cases before an en banc court. Both cases involved Pennsylvania students who used home computers, located off-campus, to create parodies of their school principals on MySpace.com. The

³²⁶ Id.

³²⁷ Supra. note 148.

³²⁸ Id.

³²⁹ Supra. note 150.

³³⁰ Id.

³³¹ Supra. note 148.

³³² Supra. note 150.

³³³ Supra. note 151.

³³⁴ Supra. note 152.

students, in both cases, were suspended from school by school officials. A unanimous three-judge panel ruled in *Layshock v. Hermitage School District* that a student could not be punished for his off-campus speech.³³⁵ However, in *J.S. ex rel. Snyder v. Blue Mountain School District*, a decision rendered by a separate three-judge panel favored the school district's right to punish students for their off-campus speech.³³⁶ At this time, a new ruling has not been delivered by the United States Court of Appeals for the Third Circuit.

Conclusion

As is the case with public school policy, there is no absolute guiding principle when dealing with the issue of Internet-related student speech. With the lack of definitive Supreme Court standards concerning Internet-related student speech, lower federal and state courts have applied their individual judgments.

Internet Service Provider Immunity

Cyberbullying, as a concept, takes place primarily on the Internet regardless of the means by which it occurs, including websites, web pages, chat rooms, or emails. Each person who commits cyberbullying has been provided a vehicle to access the Internet by an Internet Service Provider or ISP. Currently, Internet Service Providers are afforded sweeping immunity under the Communications Decency Act of 1996, and in particular, Section 230 which states, "No provider or user of an interactive computer service shall be treated as the publisher or speaker of information provided by another information content provider".³³⁷ Under this legislative immunity, ISPs have no duty to remove content regardless of the content's truthfulness or harmfulness³³⁸ and leaves victims of cyberbullying with little recourse thus allowing those who cyberbully to anonymously continue their vicious behavior unchecked. Areheart argues that ISPs should bear some responsibility for wrongs committed by cyberbullies, through third-party liability protection, because the ISPs have the ability to address inappropriate

³³⁵ Supra. note 151.

³³⁶ Supra. note 152.

³³⁷ 47 U.S.C. § 230 (2000). Communications Decency Act of 1996.

³³⁸ Bradley A. Areheart. *Regulating cyberbullies through notice-based liability* (2007). 117 Yale Law Journal Pocket Part 42.

actions of the users.³³⁹ However, as Zitter notes, traditional libel law provides for classification of the defendant, thereby affecting the burden established in a defamation case.³⁴⁰ Zitter goes on to state that “A common carrier, an entity that has no editorial control over the information it carries, such as a telephone company, may not be held liable for information it merely transmits from one party to another as a passive conduit.”³⁴¹

Lunney v. Prodigy Services Co.

The decisions, *Lunney v. Prodigy Services Co.*³⁴² and *Zeran v. America Online, Inc.*,³⁴³ uphold the immunity granted Internet Service Providers. In the *Lunney* case, an unknown imposter opened a number of accounts with Prodigy and posted two vulgar messages in Alexander Lunney’s name on a Prodigy bulletin board, as well as sending a threatening and profane email to a third person, again in Lunney’s name.³⁴⁴ Lunney, by his father, sued Prodigy, asserting that he had been stigmatized by being falsely cast as the author of the messages.³⁴⁵

The court granted appeal and affirmed the lower court’s decision.³⁴⁶ Concerning the email message sent by the imposter, the New York Court of Appeals concluded that Prodigy’s role in transmitting email is akin to that of the telephone company, which neither wants nor expects to superintend the content of its subscribers’ conversations as determined in *Anderson v. New York Telephone Company*.³⁴⁷ The court went on to note, like the telephone and telegraph companies, the public would not be well served by compelling an ISP to examine and screen millions of email communications, on pain of liability for defamation.³⁴⁸ Unlike the email communication previously noted, the

³³⁹ Ibid.

³⁴⁰ Jay M. Zitter. *Liability of Internet service provider for Internet or e-mail defamation* (2000). 84 A.L.R. 5th 169.

³⁴¹ Ibid.

³⁴² 94 N.Y. 2d 242 (N.Y. 1999). *Lunney v. Prodigy Services Co.*

³⁴³ 129 F.3d 327 (4th Cir. 1997). *Zeran v. America Online, Inc.*

³⁴⁴ Supra. note 342.

³⁴⁵ Id.

³⁴⁶ Id.

³⁴⁷ 35 N.Y.2d 746, 320 N.E.2d 647 (N.Y.,1974). *Anderson v. New York Telephone Company*. The court determined that the telephone company could not be held liable as a publisher of an obscene message that a third party recorded and made available to the public by inviting anyone interested to dial in and listen.

³⁴⁸ Supra. note 342.

electronic bulletin board messages were addressed by the court in a different manner due to the greater level of cognizance that their operators can exert over them. The court opined that even if Prodigy exercised the power to exclude certain vulgarities from the text of certain messages, this would not alter its passive character in the millions of other messages in whose transmission it did not participate.³⁴⁹ In addition, the court concluded that Prodigy was not a publisher of the electronic bulletin board messages.³⁵⁰

Zeran v. America Online, Inc.

In the case of *Zeran v. America Online, Inc.*, Kenneth Zeran brought suit against America Online, Inc. (AOL) in the United States District Court for the Eastern District of Virginia arguing that AOL unreasonably delayed removing defamatory messages posted by an unidentified third party, refused to post retractions, and failed to screen for similar postings thereafter. The district court granted motion for judgment on the pleadings, and the case was appealed to the United States Court of Appeals for the Fourth Circuit by Zeran.³⁵¹

The *Zeran* case began on April 25, 1995, when an unidentified person posted a message on an AOL bulletin board advertising “Naughty Oklahoma T-Shirts” that featured offensive and tasteless slogans related to the April 19, 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City.³⁵² Interested parties were instructed to call “Ken” at Zeran’s home phone number in Seattle, Washington.³⁵³ As a result of the message board posting, Zeran received a high volume of angry calls, including death threats. Zeran could not change his phone number because he ran a business out of his home. Zeran called AOL and informed a company representative who assured him the posting would be removed, but AOL would not post a retraction as a matter of policy.³⁵⁴ Over the next four days, the unknown poster made additional posts advertising new tasteless slogans and related items. The angry and threatening phone calls intensified.³⁵⁵ Zeran repeatedly called AOL during this time period and was told

³⁴⁹ Id.

³⁵⁰ Id.

³⁵¹ Supra. note 343.

³⁵² Id.

³⁵³ Id.

³⁵⁴ Id.

³⁵⁵ Id.

that the individual account from which the messages were posted would soon be closed. Zeran also reported his case to the FBI. By April 30, 1995, he was receiving an abusive phone call approximately every two minutes.³⁵⁶

On May 1, 1995, a radio announcer for radio station KROX in Oklahoma City received a copy of the AOL message and related the message's content on the air. The announcer urged the listening audience to call the number.³⁵⁷ After the radio broadcast, Zeran was inundated with death threats from Oklahoma City residents. Zeran contacted both KROX and AOL representatives, as well as local police who patrolled his home to protect his safety.³⁵⁸ By May 14, 1995, KROX made an on-air apology and Oklahoma City newspapers exposed the advertisements as a hoax, the number of calls subsided to approximately 15 per day.³⁵⁹

The Fourth Circuit Court of Appeals, in their ruling, upheld the lower court's determination.³⁶⁰ This was based upon the Communications Decency Act of 1996, 47 U.S.C. § 230 (c)(1) which precludes courts from entertaining claims that would place a computer service provider in a publisher's role.³⁶¹ Additionally, the court upheld the legality of the Communications Decency Act of 1996 that states, lawsuits seeking to hold a service provider liable for its exercise of a publisher's traditional editorial functions, such as deciding whether to publish, withdraw, postpone or alter content are barred.³⁶²

Conclusion

The concept of Internet Service Provider Liability as a means of addressing cyberbullying is an unique idea. However, this is not a viable means by which to confront the issue. Section 230 of the Communications Decency Act of 1996 has afforded sweeping immunity to Internet Service Providers, and the courts have upheld this legislation.

³⁵⁶ Id.

³⁵⁷ Id.

³⁵⁸ Id.

³⁵⁹ Id.

³⁶⁰ Id.

³⁶¹ Supra. note 337.

³⁶² Id.

CHAPTER IV METHODOLOGY

Research Questions

For this study, cyberbullying has been defined as a purposeful aggressive behavior but does not necessarily involve a difference of power or strength. Any written or verbal expression, act, or gesture directed at another person(s) to intimidate, frighten, ridicule, humiliate, or cause harm to the other person through email, instant messaging, text digital imaging messages, and digital images sent via cellular phones, Web pages, Web logs (blogs), chat rooms, or discussion groups, and other information technologies where the conduct is unrelated to the person's membership in a protected class (e.g. race, sex).

This study answers the following questions as they relate to cyberbullying in Virginia public middle schools and public secondary schools:

- 1) To what degree do public middle school and public secondary school administrators in the Commonwealth of Virginia perceive cyberbullying to be a problem among their students?
- 2) Do public middle school and public secondary school administrators in the Commonwealth of Virginia perceive their current school policies allow them to effectively address cyberbullying issues?
- 3) Are both genders of students involved in an equal number of cyberbullying incidents?
- 4) Are public middle school and public secondary school students involved in an equal number of cyberbullying incidents?
- 5) Do public middle school and public secondary school administrators in the Commonwealth of Virginia perceive that a new policy would allow them to more effectively address cyberbullying issues?
- 6) Is there a relationship between school demographics fiscal capacity (Local Composite Index (LCI), ethnicity (Caucasian vs. non-Caucasian), school enrollment (September 30 counts), and disadvantaged eligibility status and public school administrator perceptions of cyberbullying problems?

Data Collection

In order to answer these questions, this study examined the computer system use policies and other relevant district policies for each of the 132 public school districts in the Commonwealth of Virginia, as well as the Virginia School Boards Association policies as they relate to cyberbullying. Computer system use policies were gathered mainly through the use of digital access to local school district policy manuals posted on district websites. Legislation contained in the Virginia Code requires public school districts to post their respective policy manuals on their district websites.³⁶³ However, if electronic access to a school district's policy manual was limited, they were contacted via email or telephone in an effort to gain access to this document. Additionally, email communication and telephone interviews were conducted with school district administrative personnel from various public school districts to ensure that other documents specifically addressing their prohibitions against cyberbullying were taken into consideration.

The data gathered for this phase of the study were obtained through mixed methodologies and yielded quantifiable information. Focus was placed on policies local school districts have implemented in an effort to police cyberbullying (sending insulting emails, texting derogatory messages, inappropriate web postings, etc.) among its students. Specifically, the study evaluated how and to what extent school districts' policies have addressed the issue of cyberbullying with regard to the site of the incident, disruptive effects, and consequences for perpetrating an act of cyberbullying via electronic messages. Public school districts fell into any number of categories with regard to policing cyberbullying, ranging from mentioning the issue in their policy manuals or other district procedures to establishing exactly what constitutes cyberbullying and how, when, and to what extent cyberbullying will be addressed by school authorities. A cross-tabulation procedure was developed to illustrate policies developed by each Virginia public school district:

- 1) Cyberbullying is defined in district policy manual.
- 2) Location of cyberbullying incident is addressed in policy manual.

³⁶³ Virginia Department of Education. 2009 Standards of Quality. Retrieved November 23, 2009, from <http://www.doe.virginia.gov/VDOE/suptsmemos/2009/inf136b.pdf>.

- 3) Required reporting of the cyberbullying incident is included in the policy manual.
- 4) Consequences are identified in the policy manual for those who participate in acts of cyberbullying.
- 5) District has other policies that address cyberbullying.

Once all pertinent school district documents were gathered and categorized, data were evaluated pursuant to current case law that related to students' First Amendment speech rights. The cross tabulation instrument was also used for confirmation of data gathered from the survey participants. Data triangulation was used to ensure the data retrieved from district websites were valid. As Fraenkel and Wallen note, when a conclusion is supported by data collected from a number of different instruments, its validity is thereby enhanced.³⁶⁴ The cross-tabulation tool is included in Appendix C.

This study also identified and analyzed the views and perceptions of public middle school and public secondary school administrators in the Commonwealth of Virginia pursuant to cyberbullying and related school policies and procedures. Survey research methodology provided the basis for the research design, and in order to assess the views and perceptions of the public school administrators, a questionnaire was developed and employed.³⁶⁵ The cover letter and survey are included in Appendices A and B. Prior to the conduct of reliability testing and distribution of the survey instrument, consent of the Virginia Tech Institutional Review Board was requested and approved in order to ensure the safety of all surveyed subjects.

The study population consisted of all public middle school and public secondary school administrators in the Commonwealth of Virginia. Information was requested from the entire population. All public middle school and public secondary school administrators in the Commonwealth of Virginia were invited to participate and categorized by their current employment status. A solicitation email was sent to the population that directed the prospective participants to proceed to a hyperlink that contained the questionnaire (see Appendices A and B for text of emails). Transmittal of emails to the population provided a substantial number of potential participants. The

³⁶⁴ Jack R. Fraenkel and Norman E. Wallen. *How to design and evaluate research in education*. McGraw-Hill, Inc. (1996).

³⁶⁵ Ibid.

solicitation email helped to identify invalid or blocked email accounts where access to the questionnaire was denied.

The initial recruitment email required the potential participants to read the required procedure and the expenditure of 5 to 10 minutes of their time. Participants were then directed to proceed to a hyperlink that contained the questionnaire and were prompted to respond to 6 short answer items and 14 closed-response items. Six of the closed-response questionnaire items asked the participants to identify their perceptions. A four-point Likert-type scale was used which excluded an “undecided” category.³⁶⁶ Short answer items contained in the instrument requested the following: school demographic information, number of cyberbullying incidents addressed, and gender of participants. Closed-response items requested information pertaining to school cyberbullying policies and their perceptions of the effectiveness of current cyberbullying policies. Definitions for all pertinent terms were included on the questionnaire.

Completion of the questionnaire by participants normally took between 15 and 20 minutes. Subsequently, participants completed the email questionnaire at a location of their choice, as access to the questionnaire was limited only to participants' access to their email accounts. Upon completion of the questionnaire, participants were requested to return their responses within two weeks of its receipt.

Two weeks following the first solicitation emails, a second set of solicitation emails were sent to the portion of the study population who had not returned completed questionnaires.

Four weeks after the initial emails were sent to potential participants, all completed questionnaires were received in the developed Google Document. The researcher entered the data into SPSS 16.0 using the following criteria to determine if there was a relationship between these criteria and public school administrators' perceptions of cyberbullying problems: 1) fiscal capacity (Local Composite Index (LCI), 2) ethnicity (Caucasian vs. non-Caucasian), 3) school enrollment (September 30

³⁶⁶ Elazar J. Pedhazur and Liora P. Schmelkin. *Measurement, design, and analysis: an integrated approach*. Lawrence Erlbaum Associates, Publishers (1991).

counts), and 4) disadvantaged eligibility status. The LCI³⁶⁷, ethnicity³⁶⁸, and enrollment³⁶⁹ were defined using the Virginia Department of Education guidelines. The United States Department of Agriculture guidelines as applied by the Virginia Department of Education Office of School Nutrition Programs were the basis for defining disadvantaged status through the use free and reduced lunch eligibility status for students.³⁷⁰ This phase of the study was based upon relationship research methodology. As Fraenkel and Wallen note, in relationship research, the relationships as measured by application of the Pearson Product Moment Correlation among two or more variables are studied without any attempt to influence them.³⁷¹ Through use of the above data, a series of correlations were used to determine if relationships existed between several school demographics and cyberbullying incidents.

Data received from this portion of the study were stored electronically on a password-protected computer at the personal residence of the researcher, who had sole access to a locked file cabinet which contained the requisite password.

Data Analysis

Based upon the research questions, the following null hypotheses were developed:

- 1) Cyberbullying is not perceived as a problem for public middle school and public secondary school administrators in the Commonwealth of Virginia;

³⁶⁷ Virginia Department of Education. Superintendent's Memo #057-10, Amendments to the FY 2010 Caboose Budget and the 2010-2012 Biennial Budget Passed by the 2010 General Assembly, Attachment F. Retrieved March 28, 2010, from http://www.doe.virginia.gov/administrators/superintendents_memos/2010/057-10f.pdf.

³⁶⁸ Virginia Department of Education. September 30, 2009 Student Membership by School (Grade, Ethnicity, and Gender). Retrieved March 4, 2010, from http://www.doe.virginia.gov/statistics_reports/enrollment/fall_membership/2009_2010/school_summaries_ethnicity.xls.

³⁶⁹ Virginia Department of Education. September 30, 2009 Student Membership by School by Grade. Retrieved March 4, 2010, from http://www.doe.virginia.gov/statistics_reports/enrollment/fall_membership/2009_2010/school_totals_grade.xls.

³⁷⁰ Virginia Department of Education Office of School Nutrition Programs (SNP). School Year 2009-2010 National School Lunch Program (NSLP) Free and Reduced Price Eligibility Report. Retrieved March 28, 2010, from http://www.doe.virginia.gov/support/nutrition/statistics/free_reduced_eligibility/2009-2010/schools/2009-2010.pdf.

³⁷¹ Supra. note 364.

- 2) Public middle school and public secondary school administrators in the Commonwealth of Virginia perceived that their current school policies allow them to effectively address cyberbullying issues;
- 3) Public middle school and public secondary school administrators in the Commonwealth of Virginia perceived that both genders of students are involved in an equal number of cyberbullying incidents;
- 4) Public middle school and public secondary school students are involved in an equal number of cyberbullying incidents;
- 5) Public middle school and public secondary school administrators in the Commonwealth of Virginia perceived that a new policy would not allow them to more effectively address cyberbullying issues; and
- 6) There is no relationship between schools' demographics (LCI, ethnicity, school enrollment, and disadvantaged status) and public school administrators' perception of cyberbullying problems.

For the purposes of this study, the dependent variables identified are as follow:

- 1) The frequency with which public middle school and public secondary school administrators address cyberbullying incidents that originate during school hours;
- 2) The frequency with which public middle school and public secondary school administrators address cyberbullying incidents that originate outside of school hours;
- 3) The number of the identified cyberbullying incidents that originate during school hours that public middle school and public secondary school administrators address;
- 4) The number of identified cyberbullying incidents that originate outside of school hours that public middle school and public secondary school administrators address;
- 5) The number of public middle school and public secondary school administrators who perceive cyberbullying among students that originates during school hours to be a problem;

- 6) The number of public middle school and public secondary school administrators who perceive cyberbullying among students that originates outside of school hours to be a problem;
- 7) The number of public middle school and public secondary school administrators that consider his school's cyberbullying policy to be effective; and
- 8) The number of public middle school and public secondary school administrators that consider a new policy to be more effective.

The independent variables identified are as follow:

- 1) Presence of a school policy that allows public middle school and public secondary school administrators to effectively address cyberbullying that originates during school hours;
- 2) Presence of a school policy that allows public middle school and public secondary school administrators to effectively address cyberbullying that originates outside of school hours;
- 3) Grade configuration of school, i.e. middle school or secondary school;
- 4) Gender of cyberbullying perpetrator; and
- 5) School and school district demographics, i.e. LCI, ethnicity percentage, enrollment, and percentage of disadvantaged students.

Each of the preceding independent variables will have an effect on the dependent variables in the following ways:

- 1) If a school has a policy that allows public middle school and public secondary school administrators to effectively address cyberbullying that originates during school hours, the frequency with which public school administrators address cyberbullying incidents that originate during school hours will be lower;
- 2) If a school has a policy that allows public middle school and public secondary school administrators to effectively address cyberbullying that originates outside of school hours, the frequency with which public school administrators address cyberbullying incidents that originate outside of school hours will be lower;

- 3) If a school has a policy that allows public middle school and public secondary school administrators to effectively address cyberbullying that originates during school hours, a public school administrator is less likely to consider cyberbullying that originates during school hours to be a problem among his students;
- 4) If a school has a policy that allows public middle school and public secondary school administrators to effectively address cyberbullying that originates outside of school hours, a public school administrator is less likely to consider cyberbullying that originates outside of school hours to be a problem among his students;
- 5) If a school is grade configured as a secondary school, there will be fewer reported incidents of cyberbullying to public school administrators;
- 6) If a cyberbullying incident is reported, it is equally likely to have been instigated by male and female students;
- 7) If a school's ethnicity percentage or disadvantaged student percentage is high, public school administrators' perceptions of cyberbullying problems will be reduced; and
- 8) If a school's LCI or student enrollment is low, public school administrators' perceptions of cyberbullying problems will be reduced.

The tangibles, which consist of easily quantifiable items, consisted of the grade configuration of the school, presence of policy, number of cyberbullying incidents, and gender of cyberbullying perpetrator. The intangibles, which consist of items that are not readily quantifiable absent the transfer of data to a Likert-type scale, addressed in the study survey related to the perceptions of the public school administrators in terms of how they viewed the efficacy of current policy, the extent to which cyberbullying is a problem among their students, and the need for a new policy that addresses cyberbullying.

Validity

Research is seldom immune to threats to its validity. As such, the researcher has noted the following potential threats to the internal validity of the survey portion of the study:

- 1) Misinterpretation of the questions by survey respondents;
- 2) Informal procedures employed by public school administrators who work in school districts without a written policy on cyberbullying;
- 3) Deliberate misrepresentation of data by respondents; and
- 4) Inaccurate or incomplete record keeping practices.

For example, if respondents fail to accurately report frequency or time spent on addressing cyberbullying incidents, the results will be less valid. In addition, a potential threat to the external validity of the study is a low response rate by the population. Particularly, if there is considerable variance in response rate by geographical area and school level, external validity will become problematic. For example, if public school administrators in Southside Virginia, which consists of counties in the central region of Virginia that border North Carolina, had a lower response rate than their peers in the rest of the Commonwealth.

Construct validity of the questionnaire was addressed through the use of items directly related to the Code of Virginia § 22.1-279.3³⁷² and § 22.1-279.6³⁷³ as they relate to student handbooks and cyberbullying respectively. Construct validity of questionnaire items related to the gender of cyberbullying participants was addressed through the use of questionnaire items based upon the survey conducted by Princeton Survey Research Associates International for the Pew Internet & American Life Project.³⁷⁴ In order to ensure construct validity of questionnaire items related to the school administrator's perceptions of cyberbullying in their school and the effectiveness of cyberbullying policies and procedures, Dr. Kathleen Conn, Assistant Professor at Neumann University, who is recognized as an expert in the areas of First Amendment rights of students in K-12 public schools and cyberbullying issues, reviewed the individual questionnaire items and provided input as to each item's relevance to the study.

Content validity of the survey was addressed through the assemblage of four experts who examined the questionnaire items prior to field testing to ensure each questionnaire item was appropriate, had clear print, appropriate language, clear

³⁷² Code of Virginia § 22.1-279.3. Parental responsibility and involvement requirements. Retrieved September 28, 2009, from <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.3>.

³⁷³ Supra. note 30.

³⁷⁴ Supra. note 18.

directions, appropriate font size, etc.³⁷⁵

Reliability

Reliability of the survey items was addressed through distribution of sample questionnaires to public middle school and public secondary school administrators in several public school districts in Virginia. Twenty participants were chosen for reliability testing from current doctoral candidates at Virginia Polytechnic Institute and State University who also were current public middle school and public secondary school administrators in the Commonwealth of Virginia. These participants completed the questionnaire and returned them to the researcher. The researcher then sent the same group a second questionnaire, consisting of the same items, three weeks after they received the initial questionnaire to complete. This test-retest method was employed to ensure consistency of the data obtained.³⁷⁶ Results of questionnaire responses were disaggregated and analyzed using SPSS 16.0 to establish baseline data and to determine if survey questions were indeed reliable. A Pearson correlation coefficient of ≥ 0.85 a priori benchmark was established for questionnaire items in order to demonstrate correlation being significant at the 0.01 level.

Legal Analysis

This study addressed the legal framework, based upon current case and statutory law, public school districts should attempt to work within to balance students' free speech rights against the necessity to provide a safe and controlled instructional environment. The study examined five arenas of students' First Amendment rights as they relate to cyberbullying with particular attention paid to Internet Service Provider liability, including: 1) form of the speech, political or obscene, 2) school-sponsored speech, 3) severity of the disruption caused by the incident, 4) site(s) of the incident, and 5) incident rises to the level of a true threat.

Research related to case law was conducted primarily via the Westlaw legal search database of court cases and the Westlaw database of legal journals. Cases pertinent to the aforementioned arenas of student First Amendment speech rights

³⁷⁵ Supra. note 364.

³⁷⁶ Id.

adjudicated by the Supreme Court obviously were given primacy to determine appropriate guidance for public school districts in Virginia. Cases adjudicated in the Commonwealth of Virginia and the Fourth Circuit Court of Appeals were given greater value to determine legal precedence and to provide appropriate guidance for Virginia public school administrators than were given to cases adjudicated in other state and circuit courts. However, absent legal guidance from cases heard in courts in the Commonwealth of Virginia, the Fourth Circuit Court of Appeals, or opinions by the Virginia Attorneys' General, decisions rendered in other courts were given merit. Cases involving student-to-student cyberbullying incidents received particular attention, as school administrators are more apt to be confronted with these types of cyberbullying incidents.

This study further addressed the legal framework, based upon statutory law in the Commonwealth of Virginia, to which school districts must adhere in terms of mandated reporting of criminal acts to police authorities, and how this mandate relates to cyberbullying. Specifically, the criminal acts of stalking any person and threats made against any school personnel that are committed on a school bus, school property, or school-sponsored event by students as enumerated in the Code of Virginia § 22.1-279.3:1.³⁷⁷ In addition, the study addressed Virginia statutory law concerning the inappropriate use of telephones and public airways that specifically intend to coerce, intimidate, or harass any person as stated in the Code of Virginia § 18.2-427,³⁷⁸ as well as the inappropriate use of computers or computer networks that specifically intend to coerce, intimidate, or harass any person as stated in the Code of Virginia §18.2-152.7:1,³⁷⁹ and how these laws relate to school personnel in the Commonwealth. Research related to statutory law was conducted primarily via the Code of Virginia Searchable Database which is hosted by the Virginia General Assembly Legislative Information System.

The use of policy review, data analysis, expert input, and legal analysis in this study allowed for the conduct of a thorough investigation of issues related to

³⁷⁷ Code of Virginia § 22.1-279.3:1. Reports of certain acts to school authorities. Retrieved November 23, 2009, from <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-279.3C1>.

³⁷⁸ Code of Virginia § 18.2-427. Use of profane, threatening or indecent language over public airways. Retrieved November 23, 2009, from <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-427>.

³⁷⁹ Supra. note 42.

cyberbullying. The use of the above process also allowed for the development of answers to the research questions posed.

CHAPTER V

SURVEY RELIABILITY RESULTS

Survey instruments must be reliable in order for the researcher to ensure the consistency of the data obtained. As such, reliability testing of the survey items was conducted via the distribution of sample questionnaires to public middle school and public secondary school administrators in thirteen public school districts in Virginia. Twenty participants were chosen for reliability testing from current doctoral candidates at Virginia Polytechnic Institute and State University who were also public middle school and public secondary school administrators in the Commonwealth of Virginia. Participants completed the questionnaires and returned them promptly. They were then sent a second questionnaire, consisting of the same items, three weeks following the first administration of the questionnaire. This test-retest method was employed in order to ensure consistency of the data obtained.³⁸⁰ Results of questionnaire responses were disaggregated and analyzed through the use of SPSS 16.0 to establish baseline data and to determine if questionnaire items were indeed reliable. A Pearson product moment correlation coefficient of ≥ 0.85 was the a priori benchmark for questionnaire items in order to demonstrate correlation being significant at the 0.01 level.

The initial step required that reliability test participants read the recruitment email which required a mean expenditure of between 5 to 10 minutes of their time. Participants were then directed to proceed to a hyperlink that contained the questionnaire and were prompted to respond to 6 short answer items and 14 closed-response items. Six of the closed-response questionnaire items requested the participants to identify their perceptions. A four-point Likert-type scale was used and excluded an “undecided” category.³⁸¹ Short answer items contained in the instrument requested school demographic information, number of cyberbullying incidents addressed, and gender of participants. Closed-response items requested information pertaining to school cyberbullying policies, and the participants’ perceptions of the effectiveness of current cyberbullying policies. Definitions for all pertinent terms were included on the questionnaire.

³⁸⁰ Supra. note 364.

³⁸¹ Supra. note 366.

Completion of the questionnaire by participants normally took between 15 and 20 minutes. Participants then completed the email questionnaire at a location of their choice, as access to the questionnaire was limited to participants' access to their email accounts. Upon completion of the questionnaire, participants were requested to return their responses within two weeks of its receipt.

Questionnaire Item Analysis

Upon receipt of the forty completed respondent questionnaires, each item was analyzed through the use of SPSS 16.0 to compute a Pearson product moment correlation coefficient to assess the relationship between the first and second administration of the questionnaires. Of the twenty questionnaire items, thirteen items registered an absolute positive correlation between the first and second administration of the questionnaire, $r = 1.000$, $n = 20$, $p = 0.000$. The questionnaire items that exhibited a perfect positive correlation, $r = 1.000$, were items one, two, three, four, five, six, seven, eleven, twelve, thirteen, sixteen, nineteen, and twenty as displayed in Appendix B.

The seven questionnaire items that did not exhibit a perfect positive correlation, $r < 1.000$, were items eight, nine, ten, fourteen, fifteen, seventeen, and eighteen as arranged in Appendix B. However, each of the seven questionnaire items that did not achieve a perfect positive correlation surpassed the $r \geq 0.85$ a priori benchmark established prior to testing. The correlation results for these seven items ranged from $r = 0.873$ to $r = 0.986$.

Questionnaire Items with Less Than Perfect Pearson Correlation

The Pearson correlation coefficient computed to assess the relationship between the first and second administration of questionnaire item eight, *pursuant to the Code of Virginia § 22.1-279.6, does your school's student handbook address cyberbullying that originates outside of school hours*, resulted in a positive correlation of $r = 0.873$, $n = 20$, $p = 0.000$. One respondent changed his/her answer from no to yes between the first and second administration of the questionnaire.

Table 1. Questionnaire Item Eight Pearson Correlation

| | | Q8Pre | Q8Post |
|--------|---------------------|--------|--------|
| Q8Pre | Pearson Correlation | 1.000 | .873** |
| | Sig. (2-tailed) | | .000 |
| | N | 20.000 | 20 |
| Q8Post | Pearson Correlation | .873** | 1.000 |
| | Sig. (2-tailed) | .000 | |
| | N | 20 | 20.000 |

** . Correlation is significant at the 0.01 level (2-tailed).

The Pearson correlation coefficient computed to assess the relationship between the first and second administration of questionnaire item nine, *pursuant to the Code of Virginia § 22.1-279.6, as a public school administrator, with what frequency do you have to address issues related to cyberbullying that originate during school hours*, resulted in a positive correlation of $r = 0.889$, $n = 20$, $p = 0.000$. Two respondents changed their answers from seldom to occasionally between the first and second administration of the questionnaire.

Table 2. Questionnaire Item Nine Pearson Correlation

| | | Q9Pre | Q9Post |
|--------|---------------------|--------|--------|
| Q9Pre | Pearson Correlation | 1.000 | .889** |
| | Sig. (2-tailed) | | .000 |
| | N | 20.000 | 20 |
| Q9Post | Pearson Correlation | .889** | 1.000 |
| | Sig. (2-tailed) | .000 | |
| | N | 20 | 20.000 |

** . Correlation is significant at the 0.01 level (2-tailed).

The Pearson correlation coefficient computed to assess the relationship between the first and second administration of questionnaire item ten, *pursuant to the Code of Virginia § 22.1-279.6, as a public school administrator, with what frequency do you have*

to address issues related to cyberbullying that originate outside of school hours, resulted in a positive correlation of $r = 0.899$, $n = 20$, $p = 0.000$. One respondent changed his/her answer from seldom to occasionally between the first and second administration of the questionnaire.

Table 3. Questionnaire Item Ten Pearson Correlation

| | | Q10Pre | Q10Post |
|---------|---------------------|--------|---------|
| Q10Pre | Pearson Correlation | 1.000 | .899** |
| | Sig. (2-tailed) | | .000 |
| | N | 20.000 | 20 |
| Q10Post | Pearson Correlation | .899** | 1.000 |
| | Sig. (2-tailed) | .000 | |
| | N | 20 | 20.000 |

** . Correlation is significant at the 0.01 level (2-tailed).

The Pearson correlation coefficient computed to assess the relationship between the first and second administration of questionnaire item fourteen, *what number of the noted cyberbullying incidents in item eleven involved female students as the perpetrator of the incident*, resulted in a positive correlation of $r = 0.986$, $n = 20$, $p = 0.000$. Two respondents changed their answers between the first and second administration of the questionnaire. One respondent changed his/her answer from one to zero, and one respondent changed his/her answer from one to two.

Table 4. Questionnaire Item Fourteen Pearson Correlation

| | | Q14Pre | Q14Post |
|---------|---------------------|--------|---------|
| Q14Pre | Pearson Correlation | 1.000 | .986** |
| | Sig. (2-tailed) | | .000 |
| | N | 20.000 | 20 |
| Q14Post | Pearson Correlation | .986** | 1.000 |
| | Sig. (2-tailed) | .000 | |
| | N | 20 | 20.000 |

** . Correlation is significant at the 0.01 level (2-tailed).

The Pearson correlation coefficient computed to assess the relationship between the first and second administration of questionnaire item fifteen, *I consider cyberbullying that originates during school hours to be a problem among the students in my school*, resulted in a positive correlation of $r = 0.879$, $n = 20$, $p = 0.000$. Two respondents changed their answers between the first and second administration of the questionnaire. One respondent changed his/her answer from agree to disagree, and one respondent changed his/her answer from strongly disagree to disagree.

Table 5 Questionnaire Item Fifteen Pearson Correlation

| | | Q15Pre | Q15Post |
|---------|---------------------|--------|---------|
| Q15Pre | Pearson Correlation | 1.000 | .879** |
| | Sig. (2-tailed) | | .000 |
| | N | 20.000 | 20 |
| Q15Post | Pearson Correlation | .879** | 1.000 |
| | Sig. (2-tailed) | .000 | |
| | N | 20 | 20.000 |

** . Correlation is significant at the 0.01 level (2-tailed).

The Pearson correlation coefficient computed to assess the relationship between the first and second administration of questionnaire item seventeen, *I feel that my school policy related to cyberbullying allows me to effectively address incidents of cyberbullying that originate during school hours*, resulted in a positive correlation of $r = 0.897$, $n = 20$, $p = 0.000$. Two respondents changed their answers between the first and second administration of the questionnaire from strongly agree to agree.

Table 6. Questionnaire Item Seventeen Pearson Correlation

| | | Q17Pre | Q17Post |
|---------|---------------------|--------|---------|
| Q17Pre | Pearson Correlation | 1.000 | .897** |
| | Sig. (2-tailed) | | .000 |
| | N | 20.000 | 20 |
| Q17Post | Pearson Correlation | .897** | 1.000 |
| | Sig. (2-tailed) | .000 | |
| | N | 20 | 20.000 |

** . Correlation is significant at the 0.01 level (2-tailed).

The Pearson correlation coefficient computed to assess the relationship between the first and second administration of questionnaire item eighteen, *I feel that my school policy related to cyberbullying allows me to effectively address incidents of cyberbullying that originate outside of school hours*, resulted in a positive correlation of $r = 0.881$, $n = 20$, $p = 0.000$. Two respondents changed their answers between the first and second administration of the questionnaire. One respondent changed his/her answer from strongly disagree to disagree, and one respondent changed his/her answer from disagree to agree.

Table 7. Questionnaire Item Eighteen Pearson Correlation

| | | Q18Pre | Q18Post |
|---------|---------------------|--------|---------|
| Q18Pre | Pearson Correlation | 1.000 | .881** |
| | Sig. (2-tailed) | | .000 |
| | N | 20.000 | 20 |
| Q18Post | Pearson Correlation | .881** | 1.000 |
| | Sig. (2-tailed) | .000 | |
| | N | 20 | 20.000 |

** . Correlation is significant at the 0.01 level (2-tailed).

As noted in the presentation of the Pearson correlation results, the respondents that changed their answers between the first and second administrations of the questionnaire made only minor changes which allowed the Pearson correlation coefficient to remain above the a priori established benchmark of $r \geq 0.85$. As such,

complete distribution of the questionnaire to the selected population of Virginia public middle school and high school administrators commenced.

CHAPTER VI

SURVEY RESULTS

This study examined the views and perceptions of public middle school and public secondary school administrators in the Commonwealth of Virginia pursuant to cyberbullying and related school policies and procedures. Survey research methodology provided the basis for the research design. As a means of assessing the views and perceptions of the public school administrators, a questionnaire was developed and employed. As noted, prior to the distribution of the survey instrument, consent of the Virginia Tech Institutional Review Board was requested and approved in order to ensure the safety of all surveyed subjects.

Data Collection

The study population consisted of all public middle school and public secondary school administrators in the Commonwealth of Virginia. As such, the population for which the study will be applicable is public middle school and public secondary school administrators in the Commonwealth of Virginia. This population totaled 764 individuals, 345 public middle school administrators and 419 public secondary school administrators. Information was requested from the entire population. All public middle school and public secondary school administrators in the Commonwealth of Virginia were invited to participate and categorized by their current employment status. An initial solicitation email was sent to the population on August 22, 2010, that directed the prospective participants to proceed to a hyperlink that contained the questionnaire (see Appendices A and B for text of emails). The solicitation email helped to identify invalid or blocked email accounts where access to the questionnaire was denied. Of the 764 emails sent to the population, 35 emails were returned because of invalid email accounts. These email addresses were corrected, and the solicitation email was then resent to these 35 email accounts. Also, six school districts requested the researcher submit documentation to confirm the researcher's plan to conduct research within the school district. Documentation was sent to each of the six requesting school districts in order to access the public middle school and secondary school administrators employed with these school districts. Of the six requesting school districts, five approved the

researcher's request. One district denied access, and 25 school administrators were removed from the email solicitation list.

Once the potential participants received the solicitation email, the initial step required that potential participants read the recruitment email which normally required them to expend 5 to 10 minutes of their time. Participants were then directed to proceed to a hyperlink containing the questionnaire. Participants were prompted to respond to 6 short answer items and 14 closed-response items. Six of the closed-response questionnaire items requested the participants to identify their perceptions. A four-point Likert-type scale was used and excluded an "undecided" category.³⁸² Short answer items contained in the instrument requested school demographic information, number of cyberbullying incidents addressed, and gender of participants. Closed-response items requested information pertaining to school cyberbullying policies, and school administrators' perceptions of the effectiveness of current cyberbullying policies. Definitions for all pertinent terms were included on the questionnaire.

Completion of the questionnaire by participants normally took between 15 and 20 minutes. Participants then completed the email questionnaire at a location of their choice, as access to the questionnaire was limited only to participants' access to their email accounts. Upon completion of the questionnaire, participants were requested to return their responses within two weeks of its receipt. Two weeks following the first solicitation emails, a second set of solicitation emails were sent on September 5, 2010 to prospective participants who had not previously returned completed questionnaires.

Participant Demographics

A total of 56 participants returned usable questionnaires to the researcher prior to the September 20, 2010 deadline. Of the 56 returned questionnaires, 24 were completed by public middle school administrators and 32 were completed by public secondary school administrators. Of the 131 public school districts surveyed, responses were received from 35 public school districts. These school districts were geographically dispersed throughout each of the eight superintendents regions of the Commonwealth of Virginia. The total number of participants, 56, represented 7.58 percent of the

³⁸² Supra. note 366.

population, and the number of school districts from which a questionnaire was received, 35, represented 26.52 percent of the public school districts in Virginia. The researcher recognizes that due to the low response rate, generalization of findings should be viewed with caution. However, the researcher chose to run statistical analysis on the returned questionnaires. The 35 public school districts from which a completed questionnaire was received had a mean LCI = 0.3717 and median LCI = 0.3463, with a maximum LCI = 0.7846 and a minimum LCI = 0.1885. Of the 56 participants who represented public middle and secondary schools, a total of 54 schools' disadvantaged eligibility status was reported. One secondary school was newly opened for the 2010-2011 school year; therefore demographic data were unavailable, while another secondary school did not participate in the USDA program and, as such, did not report eligibility data. The percentage of disadvantaged students, based upon free and reduced priced meal eligibility, of the 54 reporting public schools were mean disadvantaged status = 37.40 percent, median disadvantaged status = 37.20 percent, while the maximum disadvantaged status = 69.63 percent and minimum disadvantaged status = 8.58 percent. A total of 55 of the responding 56 public middle and secondary schools reported enrollment totals for the 2009-2010 school year. One secondary school was newly opened for the 2010-2011 school year; therefore enrollment totals from the previous school year were unavailable. The other 55 responding public middle and public secondary schools had a mean student enrollment = 845.78 and a median student enrollment = 685, while the maximum student enrollment = 2,896 and a minimum student enrollment = 142. The ethnicity status was determined based upon non-Caucasian student enrollment percentages for 55 of the 56 responding public middle and public secondary schools. One secondary school was newly opened for the 2010-2011 school year, therefore ethnicity totals were unavailable. The ethnicity percentages for the 55 reporting public schools consisted of a mean ethnicity = 21.74 percent and a median ethnicity = 12.99 percent, while the maximum ethnicity = 96.83 percent and minimum ethnicity = 0.00 percent.

Data Analysis

The analysis and results of the findings for each of the research questions were completed and derived from the use of SPSS 16.0 computer software. Descriptive

statistics were calculated for four of the research questions, descriptive statistics and a crosstabulation analysis was completed for one research question, and a Chi-square analysis was completed for one of the research questions. The results and respective analysis of each follow.

Research Question One

1) To what degree do public middle school and public secondary school administrators in the Commonwealth of Virginia perceive cyberbullying to be a problem among their students?

Respondents' answers to questionnaire items fifteen and sixteen were used in the calculation of the following statistics. These items queried whether respondents considered cyberbullying that originated during school hours and outside of school hours respectively, to be a problem among the students in his school. Respondents were given four answer choices ranging from strongly agree which was calculated as equaling one and strongly disagree which was calculated as equaling four.

Table 8. Descriptive Statistics for Research Question One: To what degree public middle school and public secondary school administrators in the Commonwealth of Virginia perceive cyberbullying to be a problem among their students?

| | | Problem During School Hours | Problem Outside of School Hours |
|---|--------------------|-----------------------------|---------------------------------|
| N | Valid | 56 | 56 |
| | Missing | 0 | 0 |
| | Mean | 2.91 | 2.18 |
| | Std. Error of Mean | .096 | .099 |
| | Median | 3.00 | 2.00 |
| | Std. Deviation | .721 | .741 |
| | Variance | .519 | .549 |

Table 9. Respondents who consider cyberbullying that originates during school hours to be a problem

| | Frequency | Percent | Valid Percent |
|----------------------|-----------|---------|---------------|
| Valid Strongly Agree | 1 | 1.8 | 1.8 |
| Agree | 14 | 25.0 | 25.0 |
| Disagree | 30 | 53.6 | 53.6 |
| Strongly Disagree | 11 | 19.6 | 19.6 |
| Total | 56 | 100.0 | 100.0 |

Table 10. Respondents who consider cyberbullying that originates outside of school hours to be a problem

| | Frequency | Percent | Valid Percent |
|----------------------|-----------|---------|---------------|
| Valid Strongly Agree | 8 | 14.3 | 14.3 |
| Agree | 33 | 58.9 | 58.9 |
| Disagree | 12 | 21.4 | 21.4 |
| Strongly Disagree | 3 | 5.4 | 5.4 |
| Total | 56 | 100.0 | 100.0 |

From preceding tables 9 and 10, 26.8 percent of the respondents either agreed or strongly agreed that cyberbullying that originated during school hours was a problem among the students of his school. However, 73.2 percent of the respondents either agreed or strongly agreed that cyberbullying that originated outside of school hours was a problem among the students of his school. This is also shown in table 8 where the mean = 2.91 and median = 3.00 for respondents who perceive cyberbullying that originates during school hours to be a problem among his students, and a mean = 2.18 and median = 2.00 for respondents who perceive cyberbullying that originates outside of school hours to be a problem among his students

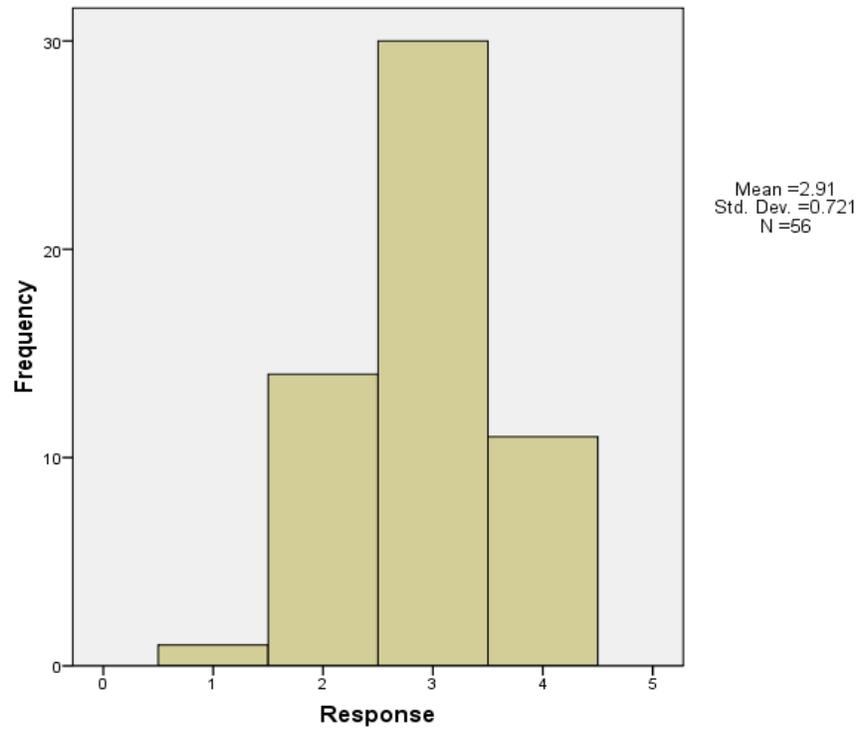


Figure 1. Respondents who consider cyberbullying that originates during school hours to be a problem.

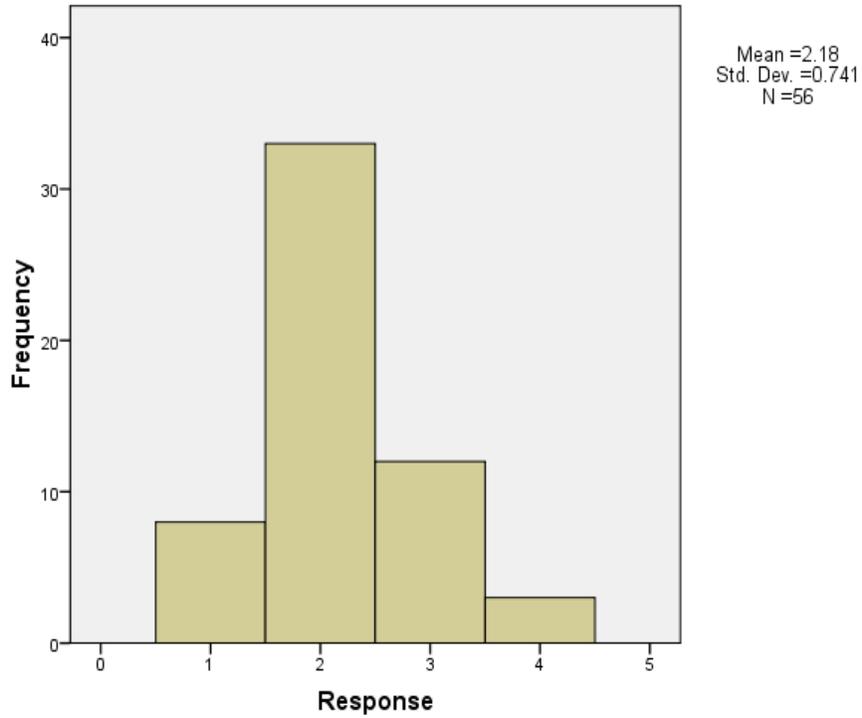


Figure 2. Respondents who consider cyberbullying that originates outside of school hours to be a problem.

This is further illustrated in the figures 1 and 2 which graphically show the respondents perceptions change based upon the timeframe from which the cyberbullying originates. Based upon the SPSS results, the null hypothesis is accepted in part as public middle school and public secondary school administrators in the Commonwealth of Virginia do not perceive cyberbullying that originates during school hours to be a problem among their students. Also, based upon the SPSS results, the null hypothesis is rejected in part as public middle school and public secondary school administrators in the Commonwealth of Virginia perceive cyberbullying that originates outside of school hours to be a problem among their students.

Research Question Two

2) Do public middle school and public secondary school administrators in the Commonwealth of Virginia perceive their current school policies allow them to effectively address cyberbullying issues?

Respondents' answers to questionnaire items seventeen and eighteen were used in the calculation of the following statistics. These items queried whether respondents considered their current school policies related to cyberbullying allowed them to effectively address incidents of cyberbullying that originated during school hours and cyberbullying that originated outside of school hours respectively. Respondents were given four answer choices ranging from strongly agree which was calculated as equaling one and strongly disagree which was calculated as equaling four.

Table 11. Descriptive Statistics for Research Question Two: Do public middle school and public secondary school administrators in the Commonwealth of Virginia perceive their current school policies allow them to effectively address cyberbullying issues?

| | | Policy Effective During School Hours | Policy Effective Outside of School Hours |
|---|--------------------|--------------------------------------|--|
| N | Valid | 56 | 56 |
| | Missing | 0 | 0 |
| | Mean | 1.96 | 2.43 |
| | Std. Error of Mean | .092 | .098 |
| | Median | 2.00 | 2.50 |
| | Std. Deviation | .687 | .735 |
| | Variance | .471 | .540 |

Table 12. Respondents who perceive their current policy allows them to effectively address cyberbullying that originates during school hours

| | | Frequency | Percent | Valid Percent |
|-------|-------------------|-----------|---------|---------------|
| Valid | Strongly Agree | 13 | 23.2 | 23.2 |
| | Agree | 33 | 58.9 | 58.9 |
| | Disagree | 9 | 16.1 | 16.1 |
| | Strongly Disagree | 1 | 1.8 | 1.8 |
| | Total | 56 | 100.0 | 100.0 |

Table 13. Respondents who perceive their current policy allows them to effectively address cyberbullying that originates outside of school hours

| | | Frequency | Percent | Valid Percent |
|-------|-------------------|-----------|---------|---------------|
| Valid | Strongly Agree | 6 | 10.7 | 10.7 |
| | Agree | 22 | 39.3 | 39.3 |
| | Disagree | 26 | 46.4 | 46.4 |
| | Strongly Disagree | 2 | 3.6 | 3.6 |
| | Total | 56 | 100.0 | 100.0 |

From tables 12 and 13 above, 23.2 percent of the respondents strongly agreed and 58.9 percent of the respondents agreed that their current school policies related to cyberbullying that originated during school hours allowed them to effectively address these issues. However, when asked if their current school policies related to cyberbullying that originated outside of school hours allowed them to effectively address these issues, that percentage dropped to 10.7 percent of the respondents strongly agreeing and 39.3 percent agreeing with this statement. The descriptive statistics in table 11 also bares this out with the mean = 1.96 and median = 2.00 for respondents who perceive their current cyberbullying policies allow them to effectively address these issues should they originate during school hours. The mean = 2.43 and median = 2.50 for respondents who perceive their current cyberbullying policies allow them to effectively address these issues should they originate outside of school hours.

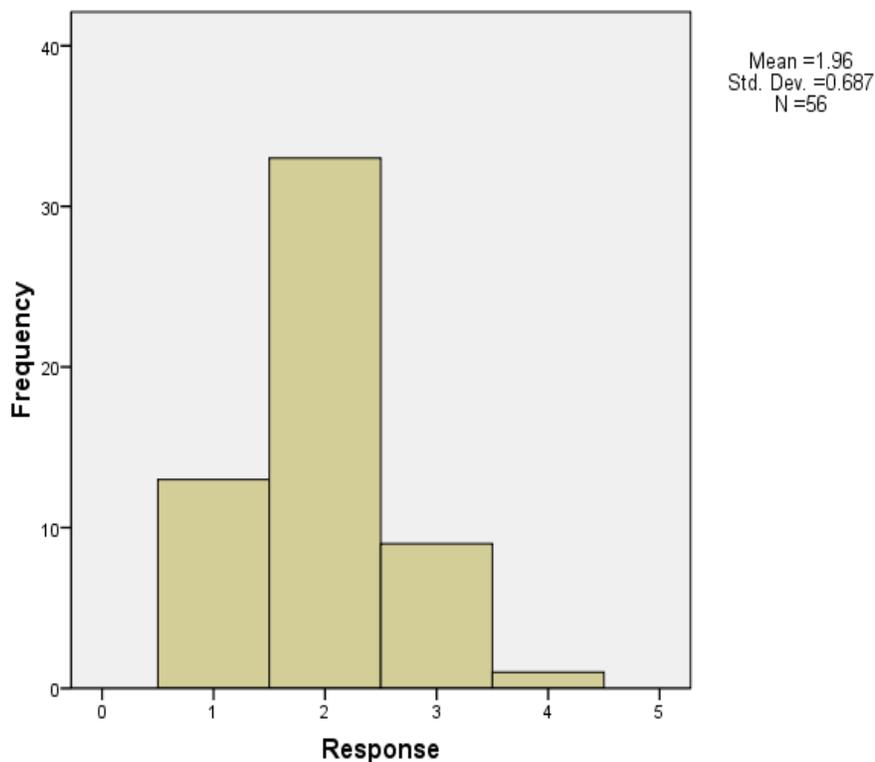


Figure 3. Respondents who perceive their current policy allows them to effectively address cyberbullying that originates during school hours.

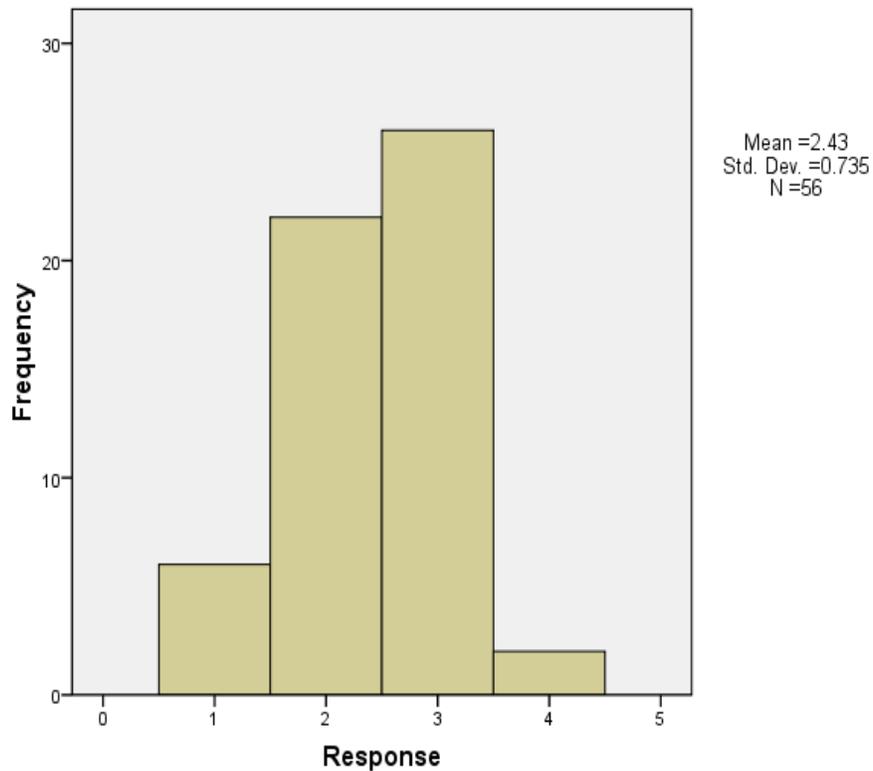


Figure 4. Respondents who perceive their current policy allows them to effectively address cyberbullying that originates outside of school hours.

This is also shown in figures 3 and 4 which graphically illustrate the respondents perceptions of the effectiveness of their current policies related to cyberbullying changed based upon the timeframe during which the cyberbullying originated. Based upon the SPSS results, the null hypothesis is again accepted in part as public middle school and public secondary school administrators in the Commonwealth of Virginia perceive their current school policies allow them to effectively address cyberbullying issues that originate during school hours. Also, based upon the SPSS results, the null hypothesis is rejected in part as public middle school and public secondary school administrators in the Commonwealth of Virginia do not perceive their current school policies allow them to effectively address cyberbullying issues that originate outside of school hours.

Research Question Three

3) Are both genders of students involved in an equal number of cyberbullying incidents?

Respondents' answers to questionnaire items eleven and fourteen were used in the calculation of the following statistics. The two questionnaire items inquired how many times during a typical school month do you address students because of issues related to cyberbullying, and what number of the total cyberbullying incidents involved female students as the perpetrator. Respondents were not given prescribed answer choices, but instead had the option of simply denoting the actual number of occurrences that take place during a typical school month. As such, several cases included responses that were not whole numbers, e.g., 0.7, 0.8, and 1.8, and were based upon yearly totals which were reduced to ascertain a typical school month total.

Table 14. Descriptive Statistics for Research Question Three: Are female students involved in more cyberbullying incidents than male students?

| | | Total Number of Reported Incidents | Incidents Involving Females |
|---|--------------------|------------------------------------|-----------------------------|
| N | Valid | 55 | 55 |
| | Missing | 1 | 1 |
| | Mean | 2.465 | 1.984 |
| | Std. Error of Mean | .2690 | .2199 |
| | Median | 2.000 | 1.800 |
| | Std. Deviation | 1.9952 | 1.6307 |
| | Variance | 3.981 | 2.659 |
| | Sum | 135.6 | 109.1 |

Table 15 Total number of cyberbullying incidents addressed during a typical school month

| | | Frequency | Percent | Valid Percent |
|---------|-------|-----------|---------|---------------|
| Valid | 0 | 7 | 12.5 | 12.7 |
| | 0.8 | 2 | 3.6 | 3.6 |
| | 1 | 14 | 25.0 | 25.5 |
| | 2 | 10 | 17.9 | 18.2 |
| | 3 | 7 | 12.5 | 12.7 |
| | 4 | 2 | 3.6 | 3.6 |
| | 5 | 10 | 17.9 | 18.2 |
| | 6 | 1 | 1.8 | 1.8 |
| | 7 | 1 | 1.8 | 1.8 |
| | 8 | 1 | 1.8 | 1.8 |
| | Total | 55 | 98.2 | 100.0 |
| Missing | | 1 | 1.8 | |
| Total | | 56 | 100.0 | |

Table 16. Total number of cyberbullying incidents addressed during a typical school month that are perpetrated by a female student

| | | Frequency | Percent | Valid Percent |
|---------|-------|-----------|---------|---------------|
| Valid | 0 | 7 | 12.5 | 12.7 |
| | 0.7 | 1 | 1.8 | 1.8 |
| | 0.8 | 2 | 3.6 | 3.6 |
| | 1 | 17 | 30.4 | 30.9 |
| | 1.8 | 1 | 1.8 | 1.8 |
| | 2 | 9 | 16.1 | 16.4 |
| | 3 | 10 | 17.9 | 18.2 |
| | 4 | 4 | 7.1 | 7.3 |
| | 5 | 2 | 3.6 | 3.6 |
| | 7 | 2 | 3.6 | 3.6 |
| | Total | 55 | 98.2 | 100.0 |
| Missing | | 1 | 1.8 | |
| Total | | 56 | 100.0 | |

As shown in tables 15 and 16, one respondent failed to include the requested counts. Of the respondents who answered questionnaire item eleven, 60.0 percent noted that they addressed two or fewer cyberbullying incidents during a typical school month. Conversely, 67.3 percent of respondents noted that they addressed two or fewer cyberbullying incidents involving female students as the perpetrator during a typical school month. Of the 135.6 total incidents addressed by respondents during a typical school month, 109.1 of these incidents, or 80.5 percent, involved female students as the perpetrator of the cyberbullying. These figures are solidified by the mean and median of the total incidents and incidents involving female students as the perpetrator. The mean = 2.465 for the number of cyberbullying incidents addressed during a typical school month, and mean = 1.984 for number of cyberbullying incidents addressed during a typical school month that involved female students as the perpetrator. The mean of female incidents is 80.5 percent of the mean of total cyberbullying incidents addressed by respondents during a typical school month. The median = 2.0 for total incidents, while the median = 1.8 for female incidents. The median of female incidents is 90.0 percent of the median of total cyberbullying incidents addressed by respondents. Based upon the SPSS results, the null hypothesis is rejected as public middle school and public secondary school administrators in the Commonwealth of Virginia do not perceive that both genders of students are involved in an equal number of cyberbullying incidents.

Research Question Four

4) Are public middle school and public secondary school students involved in an equal number of cyberbullying incidents?

Respondents' answers to questionnaire items three and eleven were used in the calculation of the following statistics. Questionnaire item three inquired as to the grade configuration of the school in which they are currently employed. Questionnaire item eleven asked how many times during a typical school month do you address students because of issues related to cyberbullying. Respondents were instructed to choose between two prescribed answer choices, middle school, which was coded as one and secondary school, which was coded as two, in questionnaire item three. Respondents were not given a prescribed answer choice in questionnaire item eleven; instead

respondents had the option of simply denoting the actual number of cyberbullying incident that they address during a typical school month.

Table 17. Descriptive Statistics for Research Question Four:^a Are middle school students involved in more cyberbullying incidents than secondary school students?

| | | Grade | Total Number of Reported Incidents |
|---|--------------------|-------|------------------------------------|
| N | Valid | 24 | 24 |
| | Missing | 0 | 0 |
| | Mean | 1.00 | 2.150 |
| | Std. Error of Mean | .000 | .2897 |
| | Median | 1.00 | 2.000 |
| | Std. Deviation | .000 | 1.4194 |
| | Variance | .000 | 2.015 |

^a. Grade = Middle School

Table 18. Descriptive Statistics for Research Question Four:^a Are middle school students involved in more cyberbullying incidents than secondary school students?

| | | Grade | Total Number of Reported Incidents |
|---|--------------------|-------|------------------------------------|
| N | Valid | 32 | 31 |
| | Missing | 0 | 1 |
| | Mean | 2.00 | 2.710 |
| | Std. Error of Mean | .000 | .4204 |
| | Median | 2.00 | 2.000 |
| | Std. Deviation | .000 | 2.3408 |
| | Variance | .000 | 5.480 |

^a. Grade = Secondary School

Table 19. Crosstabulation for school grade configuration and number of cyberbullying incidents addressed during a typical school month

| | | | Total Incidents | | | | | | | | | |
|---------------------|--------------------|--------|-----------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| | | | 0 | 0.8 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Grade Middle School | Count | 1 | 2 | 8 | 3 | 6 | 2 | 2 | 0 | 0 | 0 | 24 |
| | % within Grade | 4.2% | 8.3% | 33.3% | 12.5% | 25.0% | 8.3% | 8.3% | .0% | .0% | .0% | 100.0% |
| | % within Incidents | 14.3% | 100.0% | 57.1% | 30.0% | 85.7% | 100.0% | 20.0% | .0% | .0% | .0% | 43.6% |
| Secondary School | Count | 6 | 0 | 6 | 7 | 1 | 0 | 8 | 1 | 1 | 1 | 31 |
| | % within Grade | 19.4% | .0% | 19.4% | 22.6% | 3.2% | .0% | 25.8% | 3.2% | 3.2% | 3.2% | 100.0% |
| | % within Incidents | 85.7% | .0% | 42.9% | 70.0% | 14.3% | .0% | 80.0% | 100.0% | 100.0% | 100.0% | 56.4% |
| Total | Count | 7 | 2 | 14 | 10 | 7 | 2 | 10 | 1 | 1 | 1 | 55 |
| | % within Grade | 12.7% | 3.6% | 25.5% | 18.2% | 12.7% | 3.6% | 18.2% | 1.8% | 1.8% | 1.8% | 100.0% |
| | % within Incidents | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% | 100.0% |

From table 18, one secondary school respondent failed to include the requested counts for number of cyberbullying incidents addressed during a typical school month. The cases were split for this analysis in an effort to ascertain an accurate count of the data for each prescribed grade configuration. The descriptive statistics in table 17 show the middle school mean = 2.15 and median = 2.00, while the secondary school mean = 2.71 and median = 2.00 for number of cyberbullying incidents addressed during a typical school month. The middle school standard deviation = 1.4194 and the variance = 2.015, with the secondary school standard deviation = 2.3408 and variance = 5.480 for number of incidents addressed. Even though the median = 2.00 for each group, the large difference in the standard deviation and variance can be attributed to the higher number of secondary school respondents who address a greater number of cyberbullying incidents during a typical school month. Also, as seen in table 19, a much greater percentage of secondary school respondents than their middle school counterparts stated that they address no cyberbullying incidents during a typical school month. Based upon the SPSS results, the null hypothesis is rejected as public middle

school and public secondary school students are not involved in an equal number of cyberbullying incidents.

Research Question Five

5) Do public middle school and public secondary school administrators in the Commonwealth of Virginia perceive that a new policy would allow them to more effectively address cyberbullying issues?

Respondents' answers to questionnaire items nineteen and twenty were used in the calculation of the following statistics. These items queried whether respondents perceived that a new policy would allow them to more effectively address cyberbullying that originated during school hours, as well as cyberbullying that originated outside of school hours. Respondents were given four answer choices ranging from strongly agree which was calculated as equaling one and strongly disagree which was calculated as equaling four.

Table 20. Descriptive Statistics for Research Question Five: Do public middle school and public secondary school administrators in the Commonwealth of Virginia perceive that a new policy would allow them to more effectively address cyberbullying issues?

| | | New Policy During School Hours | New Policy Outside of School Hours |
|---|--------------------|--------------------------------|------------------------------------|
| N | Valid | 56 | 56 |
| | Missing | 0 | 0 |
| | Mean | 2.50 | 2.27 |
| | Std. Error of Mean | .095 | .100 |
| | Median | 3.00 | 2.00 |
| | Std. Deviation | .714 | .751 |
| | Variance | .509 | .563 |

Table 21. Respondents who perceive a new policy would allow them to more effectively address cyberbullying that originates during school hours

| | Frequency | Percent | Valid Percent |
|----------------------|-----------|---------|---------------|
| Valid Strongly Agree | 4 | 7.1 | 7.1 |
| Agree | 23 | 41.1 | 41.1 |
| Disagree | 26 | 46.4 | 46.4 |
| Strongly Disagree | 3 | 5.4 | 5.4 |
| Total | 56 | 100.0 | 100.0 |

Table 22. Respondents who perceive a new policy would allow them to more effectively address cyberbullying that originates outside of school hours

| | Frequency | Percent | Valid Percent |
|----------------------|-----------|---------|---------------|
| Valid Strongly Agree | 6 | 10.7 | 10.7 |
| Agree | 33 | 58.9 | 58.9 |
| Disagree | 13 | 23.2 | 23.2 |
| Strongly Disagree | 4 | 7.1 | 7.1 |
| Total | 56 | 100.0 | 100.0 |

From preceding tables 21 and 22, 48.2 percent of the respondents either agreed or strongly agreed that a new policy would allow them to more effectively address cyberbullying incidents that originated during school hours. Also, 69.6 percent of the respondents either agreed or strongly agreed that a new policy would allow them to more effectively address cyberbullying incidents that originated outside of school hours. This is demonstrated in the descriptive statistics contained in table 20, where the mean = 2.50 and median = 3.00 for respondents who perceive a new cyberbullying policy would allow them to more effectively address incidents that originate during school hours, and a mean = 2.27 and median = 2.00 for respondents who perceive a new policy would allow them to more effectively address incident of cyberbullying that originate outside of school hours among his students.

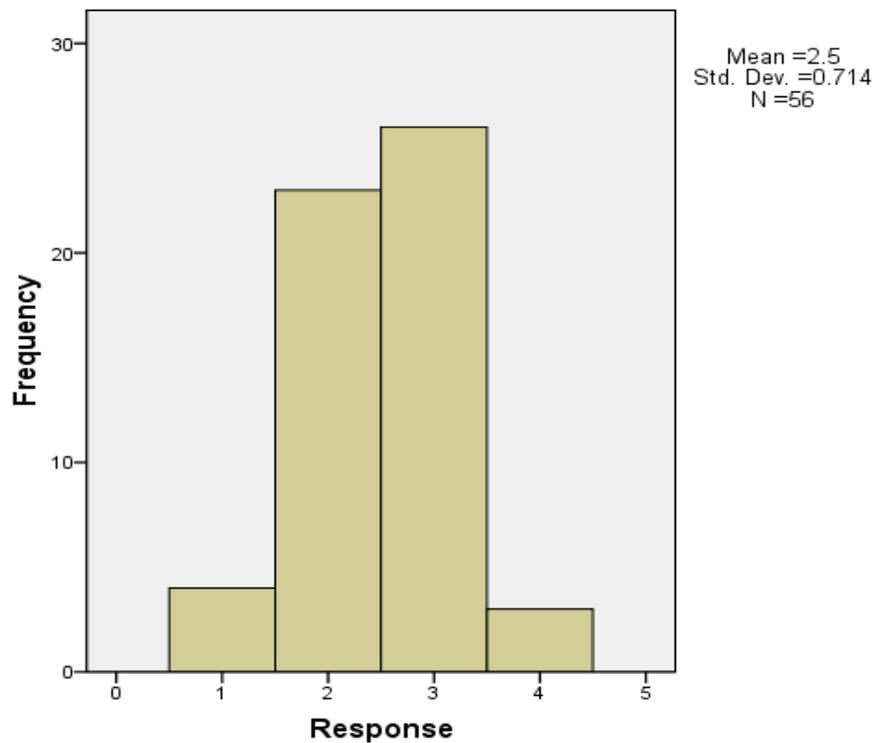


Figure 5. Respondents who perceive a new policy would allow them to more effectively address cyberbullying that originates during school hours.

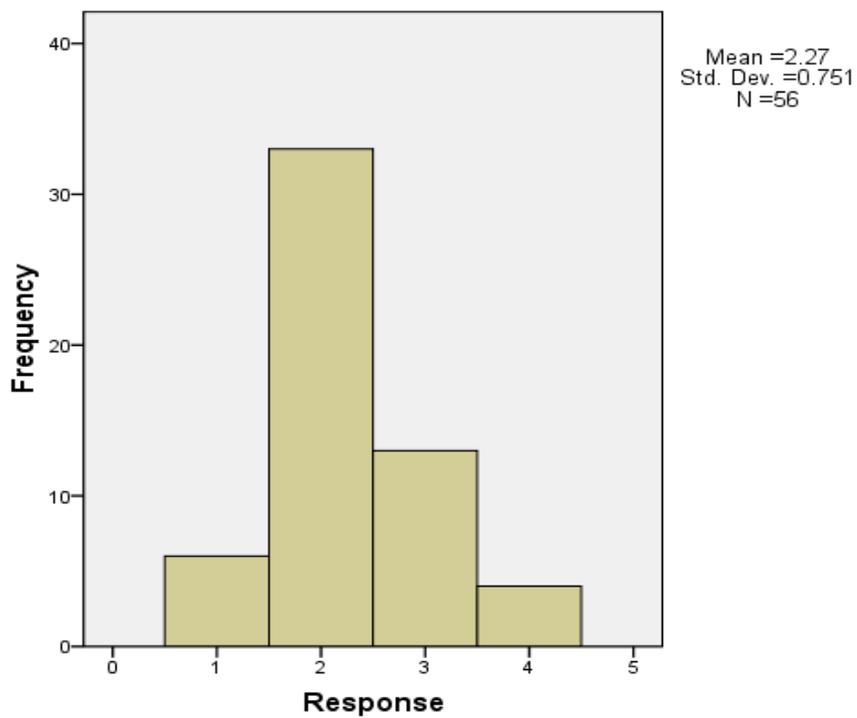


Figure 6. Respondents who perceive a new policy would allow them to more effectively address cyberbullying that originates outside of school hours.

This is again demonstrated in figures 5 and 6 which illustrate the respondents' perceptions of a new policy related to cyberbullying. Based upon the SPSS results, the null hypothesis is accepted in part as public middle school and public secondary school administrators in the Commonwealth of Virginia perceived that a new policy would not allow them to more effectively address cyberbullying issues that originate during school hours. Also, based upon the SPSS results, the null hypothesis is rejected in part as public middle school and public secondary school administrators in the Commonwealth of Virginia perceived that a new policy would allow them to more effectively address cyberbullying issues that originate outside of school hours.

Research Question Six

6) Is there a relationship between school demographics (Local Composite Index (LCI), ethnicity (non-Caucasian), school enrollment, and disadvantaged status) and public school administrator perception of cyberbullying problems?

Respondents' answers to questionnaire items one, two, fifteen, and sixteen were used in the calculation of the following statistics. Questionnaire item one inquired as to the name of the school in which they are currently employed. Questionnaire item two queried the name of the district in which they are currently employed. Respondents were not given a prescribed answer choice in questionnaire items one and two; instead respondents had the option of denoting the name of the school and school district in which they were currently employed. Questionnaire items fifteen and sixteen asked whether respondents considered cyberbullying that originated during school hours and cyberbullying that originated outside of school hours to be a problem among the students in his/her school. Respondents were given four answer choices ranging from strongly agree which was calculated as equaling one and strongly disagree which was calculated as equaling four.

Table 23. Chi-Square Tests for respondents LCI and perception of cyberbullying that originates during school hours

| LCI / Problem During School Hours | Value | df | Asymp. Sig. (2-sided) |
|-----------------------------------|---------------------|-----|-----------------------|
| Pearson Chi-Square | 95.453 ^a | 105 | .737 |
| Likelihood Ratio | 81.984 | 105 | .953 |
| Linear-by-Linear Association | .255 | 1 | .614 |
| N of Valid Cases | 56 | | |

a. 144 cells (100.0%) have expected count less than 5. The minimum expected count is .02.

Table 24. Chi-Square Tests for respondents LCI and perception of cyberbullying that originates outside of school hours

| LCI / Problem Outside of School Hours | Value | df | Asymp. Sig. (2-sided) |
|---------------------------------------|---------|-----|-----------------------|
| Pearson Chi-Square | 1.004E2 | 105 | .608 |
| Likelihood Ratio | 81.386 | 105 | .958 |
| Linear-by-Linear Association | .084 | 1 | .772 |
| N of Valid Cases | 56 | | |

a. 144 cells (100.0%) have expected count less than 5. The minimum expected count is .05.

From table 23, Pearson Chi-Square = 95.453 ($p > 0.01$) and Likelihood Ratio = 81.984 ($p > 0.01$), the null hypothesis is accepted and the variables are shown to be independent of each other. Thus, there is no relationship between LCI and public school administrators' perception of cyberbullying problems that originate during school hours. Table 24 shows a Pearson Chi-Square = 100.4 ($p > 0.01$) and Likelihood Ratio = 81.386 ($p > 0.01$) for the second analysis. The null hypothesis is accepted and the variables are noted as independent of each other. There is no relationship between LCI and public school administrators' perception of cyberbullying problems that originate outside of school hours.

Table 25. Chi-Square Tests for respondents disadvantaged student status percentage and perception of cyberbullying that originates during school hours

| Disadvantaged / Problem During School Hours | Value | df | Asymp. Sig. (2-sided) |
|---|---------|-----|-----------------------|
| Pearson Chi-Square | 1.590E2 | 156 | .418 |
| Likelihood Ratio | 113.292 | 156 | .996 |
| Linear-by-Linear Association | .376 | 1 | .540 |
| N of Valid Cases | 54 | | |

a. 212 cells (100.0%) have expected count less than 5. The minimum expected count is .02.

Table 26. Chi-Square Tests for respondents disadvantaged student status percentage and perception of cyberbullying that originates outside of school hours

| Disadvantaged / Problem Outside of School Hours | Value | df | Asymp. Sig. (2-sided) |
|---|---------|-----|-----------------------|
| Pearson Chi-Square | 1.521E2 | 156 | .573 |
| Likelihood Ratio | 115.630 | 156 | .993 |
| Linear-by-Linear Association | 3.204 | 1 | .073 |
| N of Valid Cases | 54 | | |

a. 212 cells (100.0%) have expected count less than 5. The minimum expected count is .06.

The table 25 Pearson Chi-Square = 95.453 ($p > 0.01$) and Likelihood Ratio = 81.984 ($p > 0.01$) for the first of the preceding tables. Thus, the null hypothesis is accepted and the variables are shown to be independent of one another. There is no relationship between the disadvantaged student status percentage and public school administrators' perception of cyberbullying problems that originate during school hours. Table 26 shows a Pearson Chi-Square = 100.4 ($p > 0.01$) and Likelihood Ratio = 81.386 ($p > 0.01$). The null hypothesis is accepted and the variables are noted as independent of each other. Therefore, there is no relationship between the disadvantaged student status percentage and public school administrators' perception of cyberbullying problems that originate outside of school hours.

Table 27. Chi-Square Tests for respondent school enrollment and perception of cyberbullying that originates during school hours

| Enrollment / Problem During School Hours | Value | df | Asymp. Sig. (2-sided) |
|--|---------|-----|-----------------------|
| Pearson Chi-Square | 1.650E2 | 159 | .356 |
| Likelihood Ratio | 117.292 | 159 | .995 |
| Linear-by-Linear Association | 2.779 | 1 | .095 |
| N of Valid Cases | 55 | | |

a. 216 cells (100.0%) have expected count less than 5. The minimum expected count is .02.

Table 28. Chi-Square Tests for respondent school enrollment and perception of cyberbullying that originates outside of school hours

| Enrollment / Problem Outside of School Hours | Value | df | Asymp. Sig. (2-sided) |
|--|---------|-----|-----------------------|
| Pearson Chi-Square | 1.618E2 | 159 | .422 |
| Likelihood Ratio | 116.726 | 159 | .995 |
| Linear-by-Linear Association | 6.132 | 1 | .013 |
| N of Valid Cases | 55 | | |

a. 216 cells (100.0%) have expected count less than 5. The minimum expected count is .05.

Table 27 demonstrates a Pearson Chi-Square = 165.0 ($p > 0.01$) and Likelihood Ratio = 117.292 ($p > 0.01$). The null hypothesis is therefore accepted and the variables are shown to be independent of each other. There is no relationship between the school enrollment and public school administrators' perception of cyberbullying problems that originate during school hours. Table 28 shows a Pearson Chi-Square = 161.8 ($p > 0.01$) and Likelihood Ratio = 116.726 ($p > 0.01$). Thus, the null hypothesis is accepted and the variables are noted to be independent of one another. There is no relationship between the school enrollment and public school administrators' perception of cyberbullying problems that originate outside of school hours.

Table 29. Chi-Square Tests for respondent school ethnicity percentage and perception of cyberbullying that originates during school hours

| Ethnicity / Problem During School Hours | Value | df | Asymp. Sig. (2-sided) |
|---|---------|-----|-----------------------|
| Pearson Chi-Square | 1.650E2 | 162 | .420 |
| Likelihood Ratio | 117.292 | 162 | .997 |
| Linear-by-Linear Association | 1.588 | 1 | .208 |
| N of Valid Cases | 55 | | |

a. 220 cells (100.0%) have expected count less than 5. The minimum expected count is .02.

Table 30. Chi-Square Tests for respondent school ethnicity percentage and perception of cyberbullying that originates outside of school hours

| Ethnicity / Problem Outside of School Hours | Value | df | Asymp. Sig. (2-sided) |
|---|---------|-----|-----------------------|
| Pearson Chi-Square | 1.650E2 | 162 | .420 |
| Likelihood Ratio | 119.499 | 162 | .995 |
| Linear-by-Linear Association | 4.017 | 1 | .045 |
| N of Valid Cases | 55 | | |

a. 220 cells (100.0%) have expected count less than 5. The minimum expected count is .05.

From preceding table 29, Pearson Chi-Square = 165.0 ($p > 0.01$) and Likelihood Ratio = 117.292 ($p > 0.01$), the null hypothesis is accepted and the variables are shown to be independent of one another. Therefore, there is no relationship between school ethnicity percentage and public school administrators' perception of cyberbullying problems that originate during school hours. The table 30 Pearson Chi-Square = 165.0 ($p > 0.01$) and Likelihood Ratio = 119.499 ($p > 0.01$) for the second table. The null hypothesis is accepted and the variables are noted as independent of each other. Thus, there is no relationship between school ethnicity percentage and public school administrators' perception of cyberbullying problems that originate outside of school hours.

The analysis of data, collected from participants and school districts, conducted utilizing SPSS 16.0 software yielded the preceding results to the research questions

posed for this study. The results of which required the researcher to accept several of the noted null hypotheses.

CHAPTER VII CONCLUSIONS

This study evaluated existing school district policies in addition to public school administrators' perceptions relative to related statutory and case law in order to formulate a model policy that is legally defensible and would be appropriate for adoption by Virginia public school districts. The purposes of this chapter are to present a summary of the literature, policy analysis, legal analysis, and survey results, as well as introduce a model cyberbullying policy, concluding statements, practical applications, possibilities for future research, and final reactions.

Overview of the Literature

As the nation becomes more aware of cyberbullying and the effects cyberbullying has on our youth, questions are raised as to how to effectively address this problem. Among several studies, the Pew Internet and American Life Project reported that approximately one-third of all teenagers who use the Internet indicated that they had been targets of a range of annoying and potentially menacing online activities.³⁸³ The pre-teens and teenagers who received threatening messages, had their private emails or text messages forwarded without their consent, had embarrassing pictures posted without their permission, or had rumors about them spread online occasionally resort to desperate measures, such as suicide, to eliminate the problem. The suicides of children provide examples of cases that exemplify the pain and humiliation that can be inflicted upon a child at the hands of a cyberbully. With the ever present connectivity of adolescents via the Internet, instant messaging, and cell phones, society is left to determine how best to protect our young people from this threat which is often hidden from view.

Cyberbullying, similar to many issues dealing with the adolescents of our society, bring the schools and school districts into the battle. However, cyberbullying is more likely to occur off school premises, and is more difficult to address by school personnel because of the perceived lack of authority to issue any type of punishment for misbehavior that takes place outside of school hours and in an environment beyond the

³⁸³ Supra. note 18.

scope of school control.³⁸⁴ This leaves schools, school districts, and society as a whole to strike a balance between the rights of students to engage in free speech and the need for control of the negative effects that cyberbullying exerts.

Overview of the Policy Analysis

The study examined the computer system use policies of each of the 132 public school districts in the Commonwealth of Virginia and the recommended policy of the Virginia School Boards Association pursuant to cyberbullying. The analysis of policy focused primarily on measures local school districts have implemented in an effort to police cyberbullying (sending insulting emails, texting derogatory messages, inappropriate web postings, etc.) among its students. Specifically, this study focused on five areas and whether the district computer use policy addressed each area.

Of the 132 districts studied, 120 district computer use policies did not specifically define cyberbullying. These policies alluded to the fact that cyberbullying is prohibited in the terms and conditions of use and by prohibiting conduct that is recognized as cyberbullying such as posting threatening material. Two of the previously noted 120 Virginia public school districts used Code of Virginia §18.2-152.7:1³⁸⁵ as a basis for defining prohibited uses of the school system's computers and network.³⁸⁶ Of the remaining 12 school districts in Virginia, one district defined cyberbullying in neither idea nor term.³⁸⁷ The 11 school district policies that defined cyberbullying in term did so to varying degrees.

The policy analysis also focused on whether the school district policy made any differentiation between in-school incidents and out-of-school incidents. 124 of the 132 school district computer use policies studied did not mention location in regard to computer use. The remaining eight school districts defined location either partially or specifically. The Prince William County computer use policy shows the detailed delineation of activities that may take place off-campus that could result in negative consequences for students.

³⁸⁴ Supra. note 19.

³⁸⁵ Supra. note 42.

³⁸⁶ Supra. note 43.

³⁸⁷ Supra. note 45.

The School Division has no legal responsibility to regulate or review off-campus Internet messages, statements, postings, or acts. However, PWCS reserves the right to discipline students or employees for actions taken off-campus, which would violate this Regulation if occurring on-site, if such actions adversely affect the safety, well-being, or performance of students while in school, on school buses, at school activities, or coming to and from school; if such actions threaten violence against another student or employee, if such actions violate local, state or federal law, or School Board policies or regulations or the Code of Behavior, or if such actions disrupt the learning environment, administration, or orderly conduct of the school.³⁸⁸

Thirty two school districts' computer use policies of the 132 studied required reporting of cyberbullying incidents. The 32 noted districts required reporting by either staff or students for a variety of issues such as, security or safety concerns, inappropriate content, comments, or messages, unacceptable use or activity, harassment, or cyberbullying. The Falls Church City computer use policy is clear in language that advises, "All users should immediately report all incidents of cyberbullying, such as personal attacks or threats to the user, others, or school property. Retain copies of any threatening content or messages to provide to school authorities and/or law enforcement, if appropriate."³⁸⁹

Each of the 132 district policies studied noted potential consequences for violating the acceptable standards as outlined in the terms and conditions of use. However, 114 of the district policies simply gave a broad general statement concerning possible consequences for violation of the policy or applicable regulations. Of the 18 Virginia public school districts that listed specific consequences for violation of the computer use policy, three school districts noted that additional charges or sanctions could be brought against individuals who participate in cyberbullying.

A final focus area identified whether Virginia public school districts had defined or addressed cyberbullying in other district policies or procedures. 106 of the 132 district policies studied referenced an Internet safety program in their computer use policy. This

³⁸⁸ Supra. note 43.

³⁸⁹ Supra. note 62.

is a mandatory component of the computer use policy for school districts in Virginia.³⁹⁰ In the guidelines, the VDOE notes that, “As stated in the 2006 legislation, each Virginia school division must add a comprehensive Internet safety component to its acceptable use policy.”³⁹¹ It is unclear why these 26 school districts did not include reference to an Internet safety program in their policy.

Overview of the Legal Analysis

The study examined five arenas of students’ First Amendment rights and related statutes as they relate to cyberbullying including: 1) form of the speech, political or obscene, 2) school-sponsored speech, 3) severity of the disruption caused by the incident, 4) site(s) of the incident, and 5) whether the incident rises to the level of a true threat.

The legal basis for the analysis focused on four landmark United States Supreme Court decisions that provided standards for school officials pursuant to student speech; *Tinker v. Des Moines Independent Community School District*,³⁹² *Bethel School District No. 403 v. Fraser*,³⁹³ *Hazelwood School District v. Kuhlmeier*,³⁹⁴ and *Morse v. Frederick*.³⁹⁵ These cases have defined the extent that students may communicate their ideas on school grounds without overstepping their constitutionally protected rights to free speech. Beginning with the *Tinker* case, the Supreme Court has delineated the extent that students may express themselves on school grounds without suffering sanctions from school officials.

The standards established by the aforementioned cases covered the majority of the forms student speech may take prior to the advance of computer technology. However, since the United States Supreme Court has not created a separate standard for Internet-related student speech cases, courts have differed on which standard to apply in Internet-related student speech cases.³⁹⁶

³⁹⁰ Supra. note 30.

³⁹¹ Supra. note 74.

³⁹² Supra. note 81.

³⁹³ Supra. note 82.

³⁹⁴ Supra. note 83.

³⁹⁵ Supra. note 84.

³⁹⁶ Supra. note 140.

The limited guidance that the lower courts have given on the issue of Internet-related student speech is derived primarily from the following cases, each of which relies upon the standards established by the Supreme Court: *Beussink ex rel. Beussink v. Woodland R-IV School District*,³⁹⁷ *Emmett v. Kent School District No. 415*,³⁹⁸ *Killion v. Franklin Regional School District*,³⁹⁹ *J.S. ex rel. H.S. v. Bethlehem Area School District*,⁴⁰⁰ *Mahaffey ex rel. Mahaffey v. Aldrich*,⁴⁰¹ *Flaherty v. Keystone Oaks School District*,⁴⁰² *Requa v. Kent School District No. 415*,⁴⁰³ *Wisniewski v. Board of Education of Weedsport Central School District*,⁴⁰⁴ *A.B. v. State*,⁴⁰⁵ *O.Z. v. Board of Trustees of Long Beach Unified School District*,⁴⁰⁶ *Layshock v. Hermitage School District*,⁴⁰⁷ and *J.S. ex rel Snyder v. Blue Mountain School District*.⁴⁰⁸

The justices in the lower court rulings evaluated whether the speech occurred on-campus and whether it caused a substantial disruption, as well as whether a true threat may have existed. Absent affirmative answers to the substantial disruption and true threat questions, off-campus speech on the part of the students received more First Amendment protection than on-campus speech. Although the Supreme Court limited students' speech rights in *Fraser*⁴⁰⁹ and *Kuhlmeier*,⁴¹⁰ the lower courts relied more on the *Tinker* standard when reviewing Internet-related speech. However, in the most recent Supreme Court case related to students' speech rights, *Morse v. Frederick*, the *Tinker* standard has been somewhat eroded.⁴¹¹ The reduced standard has affected lower courts' decisions regarding student Internet-related speech, evidenced by *Wisniewski v. Weedsport*.⁴¹²

³⁹⁷ Supra. note 141.

³⁹⁸ Supra. note 142.

³⁹⁹ Supra. note 143.

⁴⁰⁰ Supra. note 144.

⁴⁰¹ Supra. note 145.

⁴⁰² Supra. note 146.

⁴⁰³ Supra. note 147.

⁴⁰⁴ Supra. note 148.

⁴⁰⁵ Supra. note 149.

⁴⁰⁶ Supra. note 150.

⁴⁰⁷ Supra. note 151.

⁴⁰⁸ Supra. note 152.

⁴⁰⁹ Supra. note 82.

⁴¹⁰ Supra. note 83.

⁴¹¹ Supra. note 139. As evidenced by Justice Thomas' remarks related to overriding the *Tinker* decision in its entirety.

⁴¹² Supra. note 148.

There is no absolute guiding principle when dealing with the issue of Internet-related student speech. With the lack of definitive Supreme Court standards concerning Internet-related student speech, lower federal and state courts have applied their individual judgments in ruling on these cases.

Overview of Survey Results

The study survey sought answers to the following questions as they relate to cyberbullying in Virginia public middle schools and public secondary schools:

- 1) To what degree do public middle school and public secondary school administrators in the Commonwealth of Virginia perceive cyberbullying to be a problem among their students?
- 2) Do public middle school and public secondary school administrators in the Commonwealth of Virginia perceive their current school policies allow them to effectively address cyberbullying issues?
- 3) Are both genders of students involved in an equal number of cyberbullying incidents?
- 4) Are public middle school and public secondary school students involved in an equal number of cyberbullying incidents?
- 5) Do public middle school and public secondary school administrators in the Commonwealth of Virginia perceive that a new policy would allow them to more effectively address cyberbullying issues?
- 6) Is there a relationship between school demographics (Local Composite Index (LCI), ethnicity (non-Caucasian), school enrollment, and disadvantaged status) and public school administrator perception of cyberbullying problems?

As such, the survey was sent to 132 public school districts, with responses received from 35 public school districts, while one public school district denied access to administrators' perceptions. These school districts were dispersed throughout each of the eight superintendents regions of the Commonwealth of Virginia. Of the 56 returned questionnaires, 24 were completed by public middle school administrators and 32 were completed by public secondary school administrators.

The survey results related to research question one showed 26.8 percent of the respondents either agreed or strongly agreed that cyberbullying that originated during school hours was a problem among the students of his school, while 73.2 percent of the respondents either agreed or strongly agreed that cyberbullying that originated outside of school hours was a problem among the students of his school.

Research question two survey results showed 23.2 percent of the respondents strongly agreed and 58.9 percent of the respondents agreed that their current school policies related to cyberbullying that originated during school hours allowed them to effectively address these issues. When asked if their current school policies related to cyberbullying that originated outside of school hours allowed them to effectively address these issues, that percentage dropped to 10.7 percent of the respondents strongly agreeing and 39.3 percent agreeing with this statement.

Respondents' answers related to research question three showed that of the 135.6 total incidents addressed by respondents during a typical school month, 109.1 of these incidents, or 80.5 percent, involved female students as the perpetrator of the cyberbullying.

Survey results for research question four showed a higher number of secondary school respondents who address a greater number of cyberbullying incidents during a typical school month than their middle school counterparts.

Research question five showed 48.2 percent of the respondents either agreed or strongly agreed that a new policy would allow them to more effectively address cyberbullying incidents that originated during school hours. Also, 69.6 percent of the respondents either agreed or strongly agreed that a new policy would allow them to more effectively address cyberbullying incidents that originated outside of school hours.

Finally, analysis of survey results for research question six showed there is no relationship between school demographics (Local Composite Index (LCI), ethnicity (non-Caucasian), school enrollment, and disadvantaged status) and public school administrator perception of cyberbullying problems that occur either during school hours or outside of school hours.

Conclusion

Based upon the policy and legal analysis conducted by the author, it is evident that there is no set standard or uniform policy established to guide Virginia public school districts as they contend with the issue of cyberbullying, nor is there is an absolute legal precedent when dealing with Internet-related student speech. The data collected from the survey indicates there is no relationship between a school or school district's demographics and cyberbullying. As such, the majority of public middle school and public secondary school administrators responding to the survey perceived cyberbullying that originates outside of school hours to be a problem among students, current policies do not allow them to effectively address cyberbullying that originates outside of school hours, and a new cyberbullying policy would allow them to more effectively do so.

Model Policy on Cyberbullying

Statutory law in the Commonwealth of Virginia, to which school districts must adhere in terms of mandated reporting of criminal acts to police authorities, and how this relates to cyberbullying should serve as the legal framework for the model cyberbullying policy. Specifically, the criminal acts of stalking any person and threats made against any school personnel that are committed on a school bus, school property, or school-sponsored event by students as enumerated in the Code of Virginia § 22.1-279.3:1.⁴¹³ In addition, Virginia statutory law concerning the inappropriate use of telephones and public airways specifically with the intent to coerce, intimidate, or harass any person as stated in the Code of Virginia § 18.2-427,⁴¹⁴ as well as the inappropriate use of computers or computer networks specifically with the intent to coerce, intimidate, or harass any person as stated in the Code of Virginia §18.2-152.7:1,⁴¹⁵ and how these laws relate to school personnel in the Commonwealth also help to form the basis for the model policy.

The author found that public school districts in the Commonwealth of Virginia typically addressed cyberbullying through their acceptable computer use policies. While

⁴¹³ Supra. note 377.

⁴¹⁴ Supra. note 377.

⁴¹⁵ Supra. note 42.

this is a logical approach, many fail to fully define, delineate location, consequences for violation, and reporting incidents of cyberbullying. Many public school districts could continue to utilize this method of dealing with cyberbullying should they strengthen this policy by including language that addresses the four areas previously noted. However, a more practical approach would be to develop a separate policy that specifically relates to cyberbullying that can be either a stand alone policy or included in conjunction with the existing acceptable computer use policy.

The office of the Virginia Attorney General has developed a model policy on cyberbullying, included in Appendix E, which could be utilized by Virginia public school districts.⁴¹⁶ The model policy specifically addresses the four noted areas of definition, location, consequences, and reporting. The model policy also makes note of the Code of Virginia § 18.2-152.7:1 concerning the inappropriate use of computers or computer networks with the intent to coerce, intimidate or harass any person.⁴¹⁷ While the model policy on cyberbullying developed by the Virginia Attorney General presents a strong legal basis from which public school districts may address this issue, the policy could be strengthened through the addition of further statutory law reference. Specifically, the addition of reference to the Code of Virginia § 18.2-427 and § 22.1-279.3:1 would accomplish this task.

The model policy does not reference Code of Virginia § 18.2-427 which addresses the inappropriate use of telephones and public airways with the intent to coerce, intimidate, or harass any person.⁴¹⁸ Cyberbullying may occur via multiple modalities. It is not solely limited to computers. The prevalence of cell phone usage among adolescents, as well as the ever increasing technological capabilities of these devices, allows almost limitless connectivity among this group. The model policy notes, "Cyberbullying is defined as the use of information and communication technologies – such as email, cell phone and page text messages, instant messaging, and defamatory personal Web sites and online personal polling sites - to support deliberate, hostile

⁴¹⁶ Virginia Department of Education Office of Educational Technology. Information Brief, August 2008. Retrieved January 28, 2009, from

http://www.doe.virginia.gov/support/technology/info_briefs/cyberbullying.pdf.

⁴¹⁷ Ibid.

⁴¹⁸ Supra. note 378.

behavior intended to frighten or harm others.”⁴¹⁹ However, several means through which a cyberbully may perpetrate an act are not addressed in the model policy. Cell phones, page text messaging, and instant messaging are not covered in Virginia Code § 18.2-152.7:1. Through the inclusion of reference to Virginia Code § 18.2-427 a potential loophole in the model policy could be eliminated, as another modality of cyberbullying would be addressed.

The model policy developed by the office of the Virginia Attorney General could be further strengthened by including reference to Virginia Code § 22.1-279.3:1 which requires reports of certain acts to school authorities, as well as additional reporting to local law enforcement.⁴²⁰ Virginia Code § 22.1-279.3:1 A(ii) states that “Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving the ... (ii) ...stalking of any person as described in § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity;”⁴²¹ Virginia Code § 22.1-279.3:1 A(iv) further states that “Reports shall be made to the division superintendent and to the principal or his designee on all incidents involving ... (iv) any threats against school personnel while on a school bus, on school property, or at a school-sponsored activity;”⁴²² In addition, Virginia Code § 22.1-279.3:1 D notes that “Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal shall immediately report to the local law-enforcement agency any act enumerated in clauses (ii) through (vii) of subsection A that may constitute a criminal offense.”⁴²³ The inclusion of this Virginia Code section in the model policy would dictate school administrators to report incidents of cyberbullying that fall within these parameters to law enforcement agencies as an additional means of victim recourse, as threats are often used by cyberbullies. Additionally, the inclusion of stalking as defined by Virginia Code § 18.2-60.3, “Any person who on more than one occasion engages in conduct directed at another person with the intent to place, or when he knows or reasonably should know that the conduct places that other person in reasonable fear of death, criminal sexual

⁴¹⁹ Supra. note 416.

⁴²⁰ Supra. note 377.

⁴²¹ Id.

⁴²² Id.

⁴²³ Id.

assault, or bodily injury to that other person is guilty of a Class 1 misdemeanor.”⁴²⁴ should the cyberbullying incident meet these guidelines, would further allow authorities to redress the victim’s situation.

By enacting the model policy on cyberbullying developed by the office of the Virginia Attorney General with the afore noted additions, included in Appendix F, public school districts in the Commonwealth of Virginia would have a policy that specifically addresses cyberbullying within the legal parameters of the school district’s authority to police student behavior without violating student First Amendment speech rights. Additionally, public school administrators would be able to provide a means of recourse for students who have been cyberbullied outside the parameters of the school day. This would be accomplished by reporting cyberbullying incidents to local law enforcement officials who have legal authority to prosecute these incidents as criminal acts.

In addition to the model policy on cyberbullying developed by the Office of the Attorney General of Virginia, a new advisory opinion on cyberbullying has been issued by the Virginia Attorney General. The opinion advises that, “Virginia law allows public school officials to confiscate and search the contents of students’ cellular phones and laptops if they have a reasonable suspicion that a student is violating the law or school rules.”⁴²⁵ While this opinion gives guidance to public school administrators in the Commonwealth of Virginia, it is yet to be seen whether it would withstand a legal challenge in the court system.

Practical Applications

The results of this study will assist school boards and public school administrators to develop a policy that specifically addresses cyberbullying within the legal parameters of the school district’s authority to police student behavior without violating student First Amendment speech rights. The policy could be presented to individuals associated with the Virginia School Boards Association in an effort to disseminate the model policy to the appropriate stakeholders. This would allow the local

⁴²⁴ Code of Virginia § 18.2-60.3. Stalking; penalty. Retrieved November 23, 2009, from <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-60.3>.

⁴²⁵ Brian McNeill, “School Leaders See Cuccinelli Opinion Affirmation as Affirmation.” *Lynchburg News and Advance*, November 30, 2010. Retrieved November 30, 2010, from <http://www2.newsadvance.com/news/2010/nov/30/school-leaders-see-cuccinelli-opinion-affirmation-ar-684015/?referer=None&shorturl=http://newsadvance.com/ar/684015/>

education agency the opportunity to review the model policy on cyberbullying developed as a result of this study and determine whether or not to adopt the noted policy. The results of this study will also assist public school administrators in providing a potential form of recourse for students who have been cyberbullied outside the parameters of the school day by reporting cyberbullying incidents to law enforcement officials who have legal authority to prosecute these incidents as criminal acts. This could also be accomplished through professional development provided to school administrators, as well as classroom teachers. This training would broaden educators' knowledge related to the issue of cyberbullying, as well as providing direction on how to address an incident should it occur in their school or classroom. The information gained through these professional development offerings in turn could be shared with students in an effort to make them aware of the dangers and potential consequences of cyberbullying. The results of this study will also assist administrators of principal preparation programs to develop modules that enable future school leaders to function within their legal boundaries when combating cyberbullying that takes place in their schools and school districts. The modules would consist of practical training for school administrators as to the current case and statutory law related to cyberbullying in the Commonwealth of Virginia. Specifically, the modules would address student First Amendment speech rights as they relate to the four landmark United States Supreme Court decisions that provide standards for school officials pursuant to student speech; *Tinker v. Des Moines Independent Community School District*,⁴²⁶ *Bethel School District No. 403 v. Fraser*,⁴²⁷ *Hazelwood School District v. Kuhlmeier*,⁴²⁸ and *Morse v. Frederick*,⁴²⁹ as well as lower court rulings related to the issue. The modules would also assist in instructing future school administrators of the pitfalls associated with policy that is vague or overbroad.

⁴²⁶ Supra. note 81.

⁴²⁷ Supra. note 82.

⁴²⁸ Supra. note 83.

⁴²⁹ Supra. note 84.

Possibilities for Future Research

Multiple approaches may be taken in the future to further add to the understanding of the policies, regulations, legal parameters, and patterns of enforcement surrounding the issue of cyberbullying in public schools.

- 1) How do cyberbullying policies enacted by local public school districts vary from state to state, and do they comply with current local, state, and federal legal standards?

Because of the increasing prevalence of cyberbullying across the nation and the call by many individuals to combat the problem, a multi-state study would provide a broader analysis of the current cyberbullying policies. Comparative data gathered from across the country on cyberbullying policies would produce a more complete study of means school districts are instituting in an effort to address this issue.

- 2) Do cell phone policies enacted by local public school districts have an effect on the occurrence of cyberbullying incidents?

This study examined the acceptable computer use policies Virginia public school districts have enacted as a means of addressing cyberbullying among students. Public school districts across the Commonwealth of Virginia also have various policies and regulations directed at cell phone possession and usage on school grounds. Because cell phones are often used in the commission of acts of cyberbullying, and many have capabilities similar to that of a desktop computer, it would be interesting to determine if there is a relationship between the number of cyberbullying incidents and local school district policies addressing the possession and use of cell phones.

- 3) Do students in Virginia public school districts view the local school district's policies enacted to address cyberbullying as an effective means of doing so?

As determined by the author, one half of the public middle and public secondary school administrators in the Commonwealth of Virginia who responded to the survey did not perceive their current policies allowed them to effectively address incidents of cyberbullying that originated outside of school hours. It would be of interest to determine if public middle and public secondary school students in the Commonwealth of Virginia

share the same perception as their school administrators as to the effectiveness of their school districts' policies.

Final Reactions

During the research process I was able to gain a wealth of knowledge and understanding via the communication with educators from across the Commonwealth of Virginia. The most valuable information was gained from these individuals during the survey reliability and survey administration portions of the study. This communication allowed me to ascertain their perceptions of the issue of cyberbullying among their students, as well as their perceptions of the means they currently use to address this issue. These school administrators were willing to give of their time and knowledge to answer the multiple questions that I directed to them. Without their willingness to participate, I would have been denied a valuable learning experience.

In my opinion, three items of particular interest that stand out in the research are as follow: 1) the lack of a relationship between the demographics of the school and school district and public school administrators' perceptions of cyberbullying problems that occur either during school hours or outside of school hours, 2) a higher number of secondary school respondents who addressed a greater number of cyberbullying incidents during a typical school month than their middle school counterparts, and 3) the number of Virginia public school districts that did not specifically define cyberbullying in their acceptable computer use policies. First, from my perspective, does the lack of a relationship between demographics and the perception of cyberbullying problems indicate that the world is truly shrinking and access to computers, the Internet, and cellular telephones are within the reach of all members of society? Second, considering most studies indicate that cyberbullying peaks during the middle school years and begins to wane during secondary school, why did more secondary school administrators contend with more incidents of cyberbullying than middle school administrators? Are secondary school students more apt to report incidents of cyberbullying than their middle school counterparts? Finally, if Virginia public school districts hope to address the issue of cyberbullying, a working definition of what constitutes the act should be included in the policy. Students should be thoroughly apprised of what is, in fact, a criminal behavior before they can be deterred from participating in such an act.

If I were to replicate this study, there are phases of the research that I would alter slightly. The first alteration deals with the questionnaire items 11, 12, and 13. In hindsight, I feel the items should have been phrased in such a way as to request the school administrators to document the total number of actual cyberbullying incidents that they addressed during the school year. I feel that this would have provided the study with a concrete figure rather than the requested number of incidents addressed during a typical school month. This number in conjunction with the enrollment totals would have allowed me to establish a per capita figure for reported cyberbullying incidents. Also, I feel that a questionnaire item related to the modality of the cyberbullying incident would have added an additional dimension to the survey portion of the study. I feel that this information would have provided more insight into the possible strategies that would help public school administrators effectively address cyberbullying incidents that may occur both during school hours and outside of school hours. Finally, I feel that by conducting the survey utilizing an online questionnaire, the number of respondents was reduced. I feel that the participation rate could be increased through the use of personal letters and paper and pencil questionnaires.

This study has truly been a wholly worthwhile endeavor that has served to broaden and illuminate me as an individual, as well as a professional educator. I hope that through these efforts the existing research has been expanded and that it may serve as a basis for future research. I feel that as educators, we should utilize every tool at our disposal to ensure the safety and wellbeing of the children with whom we are entrusted while concurrently maintaining their rights to express themselves as the framers of the Constitution intended.

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Appendix A

Survey Cover Letter

Dear School Administrator,

I am inviting you to participate in a research project to study the extent to which public school administrators contend with cyberbullying at the middle school and secondary school levels. You will be asked to complete a short questionnaire that asks a variety of questions about cyberbullying and school policy and procedures as they relate to cyberbullying. The questionnaire should take you about 15 minutes to complete.

The results of this study will be used to assist educators to address the problems associated with cyberbullying. Through your participation, I hope to understand the degree to which cyberbullying is present at the middle school and secondary school levels, as well as how schools across the Commonwealth of Virginia are addressing cyberbullying through local policy. The results of the survey should prove useful for middle school and secondary school level educators, and I will share my results by the end of the school year.

I do not know of any risks to you if you decide to participate in this survey, and I guarantee that your responses will not be identified with you personally in the study. However, by replying to this email, your absolute anonymity will be lost to the researcher, as your school name and school district will be noted on your response. Other than this information, no questionnaire items will be asked relative to you, your personnel, or students.

I hope you will take the time to complete this questionnaire and return it to me. Your participation is voluntary. Regardless of whether or not you choose to participate, a summary of my findings will be available upon your request.

If you have any questions or concerns about completing the attached questionnaire or participating in this study, you may contact me at (xxx) xxx-xxxx between 8:00 a.m. and 4:30 p.m.

Sincerely,

G. Wesley Poole
Doctoral Candidate
Virginia Polytechnic Institute and State University

Appendix B

Cyberbullying Survey

DEFINITIONS: Cyberbullying – Cyberbullying is a purposeful aggressive behavior but does not necessarily involve a difference of power or strength. Any written or verbal expression, act, or gesture directed at another person(s) to intimidate, frighten, ridicule, humiliate, or cause harm to the other person through email, instant messaging, text digital imaging messages, and digital images sent via cellular phones, Web pages, Web logs (blogs), chat rooms, or discussion groups, and other information technologies where the conduct is unrelated to the person’s membership in a protected class (e.g. race, sex).

Code of Virginia § 22.1-279.3. Parental responsibility and involvement

requirements - Within one calendar month of the opening of school, each school board shall, simultaneously with any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a notice of the requirements of this section; (ii) a copy of the school board's standards of student conduct; and (iii) a copy of the compulsory school attendance law. These materials shall include a notice to the parents that by signing the statement of receipt, parents shall not be deemed to waive, but to expressly reserve, their rights protected by the constitutions or laws of the United States or the Commonwealth and that a parent shall have the right to express disagreement with a school's or school division's policies or decisions.

Code of Virginia § 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations

- The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

DEFINITIONS: School Hours – The time students are at school during the academic school day, in transit to and from school on a school bus, or publically provided transportation, and in attendance at school-sponsored or school-related activities.

Grade Configuration – A middle school is any school with no grade lower than fifth and no grade higher than eighth (Alt & Hammer, 2000). A secondary school is any school with no grade lower than seventh and at least one grade higher than eighth (Alt & Hammer, 2000).

INSTRUCTIONS: Please fill in the underlined spaces with your answer where appropriate and place an “x” in front of all answers that apply to your school and school district.

1. What is the name of the school at which you currently serve as principal?

2. In which Virginia school district is your school located?

3. Which of the two choices below best describes your school’s grade configuration?
 - A. Middle School
 - B. Secondary School
4. Pursuant to the Code of Virginia § 22.1-279.6, does your school have a policy other than a computer use policy that addresses cyberbullying?
 - A. Yes
 - B. No
 - C. Unsure
5. Pursuant to the Code of Virginia § 22.1-279.6, does your school have a policy other than a computer use policy that addresses cyberbullying that originates outside of school hours?
 - A. Yes
 - B. No
 - C. Unsure

6. Pursuant to the Code of Virginia § 22.1-279.3, does your school have a student handbook?
- A. Yes
 - B. No
7. Pursuant to the Code of Virginia § 22.1-279.6, does your school's student handbook address cyberbullying that originates during school hours?
- A. Yes
 - B. No
 - C. Unsure
 - D. Not Applicable
8. Pursuant to the Code of Virginia § 22.1-279.6, does your school's student handbook address cyberbullying that originates outside of school hours?
- A. Yes
 - B. No
 - C. Unsure
 - D. Not Applicable
9. Pursuant to the Code of Virginia § 22.1-279.6, as a public school administrator, with what frequency do you have to address issues related to cyberbullying that originate during school hours?
- A. Often
 - B. Occasionally
 - C. Seldom
 - D. Never
10. Pursuant to the Code of Virginia § 22.1-279.6, as a public school administrator, with what frequency do you have to address issues related to cyberbullying that originate outside of school hours?
- A. Often
 - B. Occasionally
 - C. Seldom
 - D. Never

11. Pursuant to the Code of Virginia § 22.1-279.6, during a typical school month, how many times do you address students because of issues related to cyberbullying?

12. Pursuant to the Code of Virginia § 22.1-279.6, what number of the above noted cyberbullying incidents that you address originate during school hours?

13. Pursuant to the Code of Virginia § 22.1-279.6, what number of the above noted cyberbullying incidents that you address originate outside school hours?

14. What number of the noted cyberbullying incidents in item #11 involved female students as the perpetrator of the incident?

INSTRUCTIONS: For the following statements, please place an “x” in front of the response that most accurately describes your feelings or perception of each item.

15. I consider cyberbullying that originates during school hours to be a problem among the students in my school.

- A. Strongly Agree
- B. Agree
- C. Disagree
- D. Strongly Disagree

16. I consider cyberbullying that originates outside of school hours to be a problem among the students in my school.
- A. Strongly Agree
 - B. Agree
 - C. Disagree
 - D. Strongly Disagree
17. I feel that my school policy related to cyberbullying allows me to effectively address incidents of cyberbullying that originate during school hours.
- A. Strongly Agree
 - B. Agree
 - C. Disagree
 - D. Strongly Disagree
18. I feel that my school policy related to cyberbullying allows me to effectively address incidents of cyberbullying that originate outside of school hours.
- A. Strongly Agree
 - B. Agree
 - C. Disagree
 - D. Strongly Disagree
19. As a public school administrator, I feel that a new policy would allow me to more effectively address cyberbullying that occurs during school hours.
- A. Strongly Agree
 - B. Agree
 - C. Disagree
 - D. Strongly Disagree
20. As a public school administrator, I feel that a new policy would allow me to more effectively address cyberbullying that originates outside of school hours.
- A. Strongly Agree
 - B. Agree
 - C. Disagree
 - D. Strongly Disagree

Appendix C
Cross-Tabulation of School Districts and Corresponding Policies

| Virginia School District | Cyberbullying Defined in the District Acceptable Computer Use Policy | Location of Cyberbullying Incident Addressed in the District Acceptable Computer Use Policy | Cyberbullying Incidents are Required to be Reported Per District Acceptable Computer Use Policy | Consequences for Reported Cyberbullying Incidents are Defined in the District Acceptable Computer Use Policy | Cyberbullying Defined or Addressed in Other District Policies or Procedures |
|--------------------------|--|---|---|--|---|
| Accomack | Idea not term | | | Consequences but not specific to cyberbullying | Internet Safety Program |
| Albemarle | Idea not term | | Staff reports any incidents of harassment | Consequences but not specific to cyberbullying | Internet Safety Program |
| Alexandria | Idea not term | | | Consequences but not specific to cyberbullying | Internet Safety Program |
| Allegheny | Idea not term | | | Consequences but not specific to cyberbullying | Internet Safety Program |
| Amelia | Not addressed | | | Consequences but not specific to cyberbullying | |
| Amherst | Partially defined | Responsible same as in school setting | Report any incidents of harassment | Consequences but not specific to cyberbullying | Internet Safety Program |
| Appomattox | Idea not term | | | Consequences but not specific to cyberbullying | Internet Safety Program |

| Virginia School District | Cyberbullying Defined in the District Acceptable Computer Use Policy | Location of Cyberbullying Incident Addressed in the District Acceptable Computer Use Policy | Cyberbullying Incidents are Required to be Reported Per District Acceptable Computer Use Policy | Consequences for Reported Cyberbullying Incidents are Defined in the District Acceptable Computer Use Policy | Cyberbullying Defined or Addressed in Other District Policies or Procedures |
|--------------------------|--|---|---|--|---|
| Arlington | Partially defined | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Augusta | Partially defined | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Bath | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Bedford | Specifically defined | | | Specific consequences not cyberbullying | Internet Safety Program |
| Bland | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Botetourt | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Bristol | Partially defined | | | Specific consequences not cyberbullying | |
| Brunswick | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |

| Virginia School District | Cyberbullying Defined in the District Acceptable Computer Use Policy | Location of Cyberbullying Incident Addressed in the District Acceptable Computer Use Policy | Cyberbullying Incidents are Required to be Reported Per District Acceptable Computer Use Policy | Consequences for Reported Cyberbullying Incidents are Defined in the District Acceptable Computer Use Policy | Cyberbullying Defined or Addressed in Other District Policies or Procedures |
|--------------------------|--|---|---|--|---|
| Buchanan | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Buckingham | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Buena Vista | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Campbell | Partially defined | | Report security concerns | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Caroline | Partially defined | | | Consequences, but not specific to cyberbullying | |
| Carroll | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Charles City | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Charlotte | Idea not term | | | Consequences but not specific to cyberbullying | Internet Safety Program |

| Virginia School District | Cyberbullying Defined in the District Acceptable Computer Use Policy | Location of Cyberbullying Incident Addressed in the District Acceptable Computer Use Policy | Cyberbullying Incidents are Required to be Reported Per District Acceptable Computer Use Policy | Consequences for Reported Cyberbullying Incidents are Defined in the District Acceptable Computer Use Policy | Cyberbullying Defined or Addressed in Other District Policies or Procedures |
|--------------------------|--|---|---|--|---|
| Charlottesville | Partially defined | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Chesapeake | Partially defined | | Report inappropriate comments | Consequences, but not specific to cyberbullying | |
| Chesterfield | Idea not term | Disrupt safety and welfare prohibited | | Specific consequences not cyberbullying | |
| Clarke | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Colonial Beach | Idea not term | Family responsibility | | Consequences, but not specific to cyberbullying | |
| Colonial Heights | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Covington | Partially defined | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Craig | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |

| Virginia School District | Cyberbullying Defined in the District Acceptable Computer Use Policy | Location of Cyberbullying Incident Addressed in the District Acceptable Computer Use Policy | Cyberbullying Incidents are Required to be Reported Per District Acceptable Computer Use Policy | Consequences for Reported Cyberbullying Incidents are Defined in the District Acceptable Computer Use Policy | Cyberbullying Defined or Addressed in Other District Policies or Procedures |
|--------------------------|--|---|---|--|---|
| Culpeper | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Cumberland | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Danville | Idea not term | | | Consequences but not specific to cyberbullying | |
| Dickenson | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Dinwiddie | Idea not term | | | Consequences, but not specific to cyberbullying | |
| Essex | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Fairfax | Idea not term | | Report inappropriate content | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Falls Church | Idea not term | | Report any incidents of cyberbullying | Consequences but not specific to cyberbullying | Internet Safety Program |

| Virginia School District | Cyberbullying Defined in the District Acceptable Computer Use Policy | Location of Cyberbullying Incident Addressed in the District Acceptable Computer Use Policy | Cyberbullying Incidents are Required to be Reported Per District Acceptable Computer Use Policy | Consequences for Reported Cyberbullying Incidents are Defined in the District Acceptable Computer Use Policy | Cyberbullying Defined or Addressed in Other District Policies or Procedures |
|--------------------------|--|---|---|--|---|
| Fauquier | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Floyd | Specifically defined | | Report inappropriate content | Additional consequences for cyberbullying | Internet Safety Program |
| Fluvanna | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Franklin City | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Franklin County | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Frederick | Idea not term | | Report unacceptable use | Specific consequences not cyberbullying | Internet Safety Program |
| Fredericksburg | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Galax | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |

| Virginia School District | Cyberbullying Defined in the District Acceptable Computer Use Policy | Location of Cyberbullying Incident Addressed in the District Acceptable Computer Use Policy | Cyberbullying Incidents are Required to be Reported Per District Acceptable Computer Use Policy | Consequences for Reported Cyberbullying Incidents are Defined in the District Acceptable Computer Use Policy | Cyberbullying Defined or Addressed in Other District Policies or Procedures |
|--------------------------|--|---|---|--|---|
| Giles | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Gloucester | Idea not term | | Report security concerns | Specific consequences not cyberbullying | Internet Safety Program |
| Goochland | Partially defined | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Grayson | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Greene | Idea not term | | | Consequences, but not specific to cyberbullying | |
| Greensville | Idea not term | | | Consequences, but not specific to cyberbullying | |
| Halifax | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Hampton | Idea not term | | Report any AUP violation | Specific consequences not cyberbullying | |

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|--------------------------|--|---|---|--|---|
| Hanover | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Harrisonburg | Partially defined | | Report inappropriate comments | Consequences, but not specific to cyberbullying | |
| Henrico | Specifically defined | Disrupt safety and welfare prohibited | Report any incidents of cyberbullying | Additional consequences for cyberbullying | |
| Henry | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Highland | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Hopewell | Idea not term | | | Consequences, but not specific to cyberbullying | |
| Isle of Wight | Idea not term | | Report any violations of Internet safety | Specific consequences not cyberbullying | Internet Safety Program |
| King George | Specific Code of Virginia | | Report any inappropriate comments | Consequences specific to cyberbullying | |

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|--------------------------|--|---|---|--|---|
| King and Queen | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| King William | Idea not term | | | Specific consequences not cyberbullying | Internet Safety Program |
| Lancaster | Idea not term | | Report inappropriate Internet activity | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Lee | Idea not term | | Report inappropriate content | Specific consequences not cyberbullying | Internet Safety Program |
| Lexington | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Loudoun | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Louisa | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Lunenburg | Idea not term | | Staff reports any incidents of cyberbullying | Consequences, but not specific to cyberbullying | Internet Safety Program |

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|--------------------------|--|---|---|--|---|
| Lynchburg | Specifically defined | | Report inappropriate messages | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Madison | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Manassas | Idea not term | | Report threatening messages | Consequences, but not specific to cyberbullying | |
| Manassas Park | Partial Code of Virginia | | Staff reports any incidents of cyberbullying | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Martinsville | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Mathews | Specifically defined | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Mecklenburg | Idea not term | | Report inappropriate messages | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Middlesex | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |

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|--------------------------|--|---|---|--|---|
| Montgomery | Specifically defined | | Report any incidents of cyberbullying | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Nelson | Idea not term | | | Consequences, but not specific to cyberbullying | |
| New Kent | Idea not term | Anytime district resources are accessed | Report inappropriate messages | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Newport News | Idea not term | | | Consequences, but not specific to cyberbullying | |
| Norfolk | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Northampton | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Northumberland | Idea not term | | | Consequences, but not specific to cyberbullying | |
| Norton | Idea not term | | | Consequences, but not specific to cyberbullying | |

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|--------------------------|--|---|---|--|---|
| Nottoway | Partially defined | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Orange | Idea not term | | | Consequences, but not specific to cyberbullying | |
| Page | Partially defined | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Patrick | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Petersburg | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Pittsylvania | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Poquoson | Idea not term | | | Consequences, but not specific to cyberbullying | |
| Portsmouth | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |

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|--------------------------|--|---|---|--|---|
| Powhatan | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Prince Edward | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Prince George | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Prince William | Partial Code of Virginia | Disrupt safety or orderly learning environment | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Pulaski | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Radford | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Rappahannock | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Richmond City | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |

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|--------------------------|--|---|---|--|---|
| Richmond County | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Roanoke City | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Roanoke County | Specifically defined | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Rockbridge | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Rockingham | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Russell | Idea not term | Substantial disruption or true threat | | Specific consequences not cyberbullying | Internet Safety Program |
| Salem | Partially defined | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Scott | Partially defined | | | Consequences, but not specific to cyberbullying | Internet Safety Program |

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|--------------------------|--|---|---|--|---|
| Shenandoah | Idea not term | | | Consequences, but not specific to cyberbullying | |
| Smyth | Idea not term | | Report threatening messages | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Southampton | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Spotsylvania | Partially defined | Negatively affects safety or district | Report any incidents of cyberbullying | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Stafford | Specifically defined | | | Specific consequences not cyberbullying | Internet Safety Program |
| Staunton | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Suffolk | Specifically defined | | | Specific consequences not cyberbullying | Internet Safety Program |
| Surry | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |

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|--------------------------|--|---|---|--|---|
| Sussex | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Tazewell | Partially defined | | Report threatening messages | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Virginia Beach | Idea not term | | Report inappropriate messages | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Warren | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Washington | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Waynesboro | Idea not term | | | Consequences, but not specific to cyberbullying | |
| West Point | Specifically defined | Disrupt any school activity or function | Report inappropriate material | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Westmoreland | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |

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|--------------------------|--|---|---|--|---|
| Williamsburg-James City | Idea not term | | Report any violations of Internet safety | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Winchester | Partially defined | | Report inappropriate messages | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Wise | Specifically defined | | Report illegal Internet communications | Consequences, but not specific to cyberbullying | Internet Safety Program |
| Wythe | Idea not term | | | Consequences, but not specific to cyberbullying | Internet Safety Program |
| York | Idea not term | | Report any Internet safety issue | Consequences, but not specific to cyberbullying | Internet Safety Program |

Appendix D

Virginia Public School Districts' Policies and Regulations

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Appendix E
Model Policy on Cyberbullying
Office of the Attorney General of Virginia

This school division provides the electronic infrastructure and supporting software and communication devices to enhance students' education. Other uses of the technology, specifically the harassment or bullying of fellow students, will not be tolerated. To access the school division's technological resources, students must adhere to the following policy.

Cyberbullying in schools is relatively new, paralleling the proliferation of electronic communication devices. Just like traditional bullying, cyberbullying can continue off campus. Bullying and cyberbullying can persist at any time of the day or week and be broadcast to a much larger audience.

School Division Policy on Cyberbullying

Bullying—in any form—will not be tolerated on school grounds. It disrupts the learning environment and adversely affects the quality of a student's education. It harms the victim, the students exposed to it, and, in many cases, the actual bully. Since the advent of the Internet and personal electronic communication devices, bullying has expanded to include cyberbullying.

Cyberbullying is defined as the use of information and communication technologies—such as e-mail, cell phone and page text messages, instant messaging, and defamatory personal Web sites and online personal polling sites—to support deliberate, hostile behavior intended to frighten or harm others. Whereas traditional bullying was limited to direct confrontations, cyberbullying can happen anytime and be much more far reaching. When harassing language or pictures are posted to the Internet, the words and images can stay forever, which affects the victim far into the future. To that end, this school division has adopted the following policy to address this abuse of electronic communication technologies, whether the actions occur at school or off campus.

Virginia lawmakers have criminalized the use of computers and computer networks to harass another person (*Code of Virginia*, §18.2-152.7:1). This school division has adopted a similar policy.

Students must follow three basic rules:

1. Any student who uses a school-provided communication device (including a computer) or computer network (a) with the intent to intimidate, harass, or coerce another person, or (b) to use vulgar, obscene, profane, lewd, or lascivious language to communicate such harassment, or (c) to threaten an illegal or immoral act shall be subject to school disciplinary procedures.

2. Any student who uses a personal communication device on school grounds or at a school-related function (a) with the intent to intimidate, harass, or coerce another person, or (b) to use vulgar, obscene, profane, lewd, or lascivious language to communicate such harassment, or (c) to threaten an illegal or immoral act shall be subject to school disciplinary procedures.

3. In any instance in which cyberbullying creates a climate of fear and/or causes a substantial disruption of the work of the school or impinges on the rights of other students, the person committing the act shall be subject to school disciplinary proceedings.

Consequences for Violation

Any violation of these regulations shall result in loss of computer-system privileges and may also result in appropriate disciplinary action, as determined by school board policy, or possible prosecution through the judicial system.

Reporting and Investigating

Students and staff are required to report to designated staff any incidents of cyberbullying about which they are aware. Reports may be made anonymously. Designated staff will investigate all reports, using any electronic communications records currently kept by the school division, and recommend the school's next course of action.

I ACKNOWLEDGE AND UNDERSTAND MY OBLIGATIONS:

Student

Date

Parent/Guardian

Date

PARENTS, PLEASE DISCUSS THESE RULES WITH YOUR STUDENT TO ENSURE HE OR SHE UNDERSTANDS THEM.

Additional information can be found at www.cyberbullying.org.

Appendix F

Model Policy on Cyberbullying for Virginia Public School Districts

This school division provides the electronic infrastructure and supporting software and communication devices to enhance students' education. Other uses of the technology, specifically the harassment or bullying of other individuals, will not be tolerated. To access the school division's technological resources, students must adhere to the following policy.

Cyberbullying in schools is relatively new, paralleling the proliferation of electronic communication devices. Just like traditional bullying, cyberbullying can continue off campus. Bullying and cyberbullying can persist at any time of the day or week and be broadcast to a much larger audience.

School Division Policy on Cyberbullying

Bullying—in any form—will not be tolerated on school grounds. It disrupts the learning environment and adversely affects the quality of a student's education. It harms the victim, the students exposed to it, and, in many cases, the actual bully. Since the advent of the Internet and personal electronic communication devices, bullying has expanded to include cyberbullying.

Cyberbullying is defined as the use of information and communication technologies—such as email, cell phone and page text messages, instant messaging, and defamatory personal Web sites and online personal polling sites—to support deliberate, hostile behavior intended to frighten or harm others. Whereas traditional bullying was limited to direct confrontations, cyberbullying can happen anytime and be much more far reaching. When harassing language or pictures are posted to the Internet, the words and images can stay forever, which affects the victim far into the future. To that end, this school division has adopted the following policy to address this abuse of electronic communication technologies, whether the actions occur at school or off campus.

Virginia lawmakers have criminalized the use of computers and computer networks to harass another person (*Code of Virginia*, §18.2-152.7:1). Lawmakers have done the same as it pertains to the use of telephones and public airways to harass another person (*Code of Virginia*, § 18.2-427). Additionally, any person who on more than one occasion engages in conduct directed at another person with the intent to place that person in reasonable fear of death, sexual assault, or bodily injury violates *Code of Virginia* § 18.2-60.3. Finally, *Code of Virginia* § 22.1-279.3:1 prohibits any threats against school personnel while on a school bus, school property, or at a school-sponsored activity. This school division has adopted a similar policy in compliance with the noted statutory regulations.

Students must follow three basic rules:

1. Any student who uses a school-provided communication device (including a computer) or computer network (a) with the intent to intimidate, harass, or coerce another person, or (b) to use vulgar, obscene, profane, lewd, or lascivious language to communicate such harassment, or (c) to threaten an illegal or immoral act shall be subject to school disciplinary procedures.
2. Any student who uses a personal communication device on school grounds or at a school-related function (a) with the intent to intimidate, harass, or coerce another person, or (b) to use vulgar, obscene, profane, lewd, or lascivious language to communicate such harassment, or (c) to threaten an illegal or immoral act shall be subject to school disciplinary procedures.
3. In any instance in which cyberbullying creates a climate of fear and/or causes a substantial disruption of the work of the school or impinges on the rights of other students, the person committing the act shall be subject to school disciplinary proceedings.

Consequences for Violation

Any violation of these regulations shall result in loss of computer-system privileges and may also result in appropriate disciplinary action, as determined by school board policy, or notification of appropriate law enforcement agencies and possible prosecution through the judicial system.

Reporting and Investigating

Students and staff are required to report to designated staff any incidents of cyberbullying about which they are aware. Reports may be made anonymously. Designated staff will investigate all reports, using any electronic communications records currently kept by the school division, and recommend the school's next course of action.

I ACKNOWLEDGE AND UNDERSTAND MY OBLIGATIONS:

| | |
|-----------------|------|
| Student | Date |
| Parent/Guardian | Date |

PARENTS/GUARDIANS, PLEASE DISCUSS THESE RULES WITH YOUR STUDENT TO ENSURE HE OR SHE UNDERSTANDS THEM.

Additional information can be found at www.cyberbullying.org.