Introduction

The Digital Generation
Expresses Itself

Today's students have a great deal of technological sophistication. They have embraced cyber technology and digital media as a lifestyle for communicating, making cultural connections, interacting, and social networking. In fact, given their obsession with technology, this generation of children is commonly referred to as the "Net Generation"[1] or the "Digital Generation."

Children use cyber technology to easily communicate with their friends locally and globally. Students also share their thoughts, culture, and information instantaneously over mobile devices. World events, scientific breakthroughs, and information on every conceivable subject are available by surfing the Internet. Other Internet services provide guidance; find people; locate products; and purchase supplies, music, and tickets. A requirement for student success in the 21st century, the Internet is a necessary tool for researching and gathering resources for the completion of school assignments. The prevalence of available technologies and the pervasiveness of Internet use are steadily growing. Preteenagers and adolescents increasingly use these technologies to send text messages and participate in social networks.

Figure I.1 illustrates the increasing reliance on digital media by teens ages 12 to 17 to communicate online.[2] Just because cyber kids have fully embraced technology does not mean they have the maturity to properly use it. Although technology has brought advantages in communication, information, and entertainment from the world to the fingertips of students, it has also brought with it certain disadvantages: Identity theft, online predators, pornographic displays, viral attacks, and spamming[3] are commonly mentioned. Another emergent

disadvantage of digital media is that it provides easy and convenient opportunities for students to harass, humiliate, or bully others online. Its convenience, demonstrated usage, and accessibility should not give children the green light to employ cyber technology as they see fit. Nor should technology empower students with an absolute freedom to lambaste their peers or the school administration. Unfortunately, that is exactly what is happening.

Figure I.1   Pew Internet and American Life Project Survey Results (summarized from Lenhart, Madden, MacGill, & Smith, 2007[4])

Activity	Percentage of Students Ages 12–17 Using This Technology in 2004	Percentage of Students Ages 12–17 Using This Technology in 2007
Share artwork, photos, videos, or stories online	33	39
Create work on web pages or blogs for others	32	33
Create online journal or blog	19	28
Maintain personal webpage	22	27
Remix online content into their own creations	19	26
Create a profile on a social networking site		55
Upload photos to Internet site		47
Post a video online		14

Once cyber bullying occurs, the results can quickly creep into the classroom, where students eventually face the consequences. Teachers and administrators feel compelled to respond. Most children are not emotionally equipped to effectively control the situation, nor do they have the technological savvy. They cannot escape the collateral damages to their psyches or to their reputations. Therefore, teachers and administrators often step in to resolve the situation. They typically respond to cyber aggression by offering solutions and/or developing programs for mitigating its occurrences.

As cyber bullying incidents increasingly affect educational institutions, school personnel must prepare to meet the challenge. Yet they

struggle with their role, their legal authority to intervene, the decision to censor communications by minors, and disciplinary decision making. It is vital that school personnel clearly understand their role in protecting students from harm while promoting free exchange of ideas. Enforcing cyber bullying policies cannot come at the expense of constitutional free speech rights. The challenge is in understanding the difference and applying the appropriate response within the schoolyard gates. It is this struggle that this handbook seeks to address.

Cyber Bullying: An All-Encompassing Definition

Before addressing the response to student inappropriate cyber expressions, it is important to note the scope and depth of the problem. The National Crime Prevention Council defines the issue as follows: "Online bullying, called cyber bullying, happens when teens use the Internet, cell phones, or other devices to send or post text or images intended to hurt or embarrass another person."[5] Patchin and Hinduja define cyber bullying as the "willful and repeated harm inflicted through the medium of electronic text."[6] Thus, the definition includes bullying through e-mail, instant messaging (IM), social networking websites, chat rooms, and digital messages or images sent to computers, cellular phones, or handheld communication devices.[7] Cyber bullying or electronic aggression occurs when a child, preteen, or teen is tormented, threatened, harassed, humiliated, embarrassed, or otherwise targeted by another child.[8] Simply stated, cyber bullying occurs when a minor uses electronic communication technology to bully others.[9]

All of the definitions cover a broad range of conduct. Cyber bullying includes malicious intent, repetitious mistreatment, or a chronic pattern of abuse over time via open direct attacks or indirect contacts causing social isolation and exclusion.[10]

Methods of Exploitation

The methods used by students to electronically bully others are extensive and limited only by the children's imagination and access to the technology. The methodology involves knowledge of a language unique to cyber savvy individuals. Children now "flame," "out," "phish," "bash," "spam," "impersonate," poll, and "sext" each other. They also mock, harass, parody, and threaten in a high-tech manner. The technology provides a new platform to bully, tease,

target, and torment. Some of the more common techniques used to bully include the following:

1. *Flaming.* Online fighting by posting or sending an extremely critical or abusive electronic mail message in a public forum to inflame or enrage the recipient, often as retaliation to a perceived slight.[11]

2. *Outing and phishing.* Engaging a victim in an IM conversation that tricks the victim into revealing sensitive or confidential information, and then forwarding this revelation to others as a "joke."[12]

3. *Using "bash boards."* Posting racist remarks and gossip to online forums.[13]

4. *Spamming.* Sending unwanted and unsolicited e-mails in bulk that may obstruct the entire system in an attempt to force the message on people who would not otherwise choose to receive it.[14]

5. *Impersonating.* Hacking into a victim's account and then sending messages that contain embarrassing or insulting information while masquerading as the victim to damage a friendship or reputation.[15]

6. *Sending hate mail.* Sending messages designed to play on prejudices, including biases about race and sex.[16]

7. *Cyber stalking.* Sending messages that contain threats of harm or messages that are highly intimidating, causing victims to fear for their safety.[17]

8. *Harassing.* Repeatedly sending offensive, rude, and insulting messages.[18]

9. *Denigrating.* "Dissing" (disrespecting) someone online—posting cruel statements, gossip, or rumors to destroy or damage a reputation.[19]

10. *Sexting.* Taking an embarrassing sexually explicit photo and posting it on the Internet.

11. *Threatening.* Deliberately posting a statement that indicates harm to another.[20]

12. *Anonymizing.* Using an anonymizer, an intermediary website, that hides or disguises the IP address associated with the

Internet user. Generally these sites allow a person to engage in various Internet activities without leaving an easily traceable digital footprint.[21]

13. *Polling*. Establishing virtual polling places online to enable fellow students to vote on undesirable characteristics, such as which student is the fattest, ugliest, sluttiest, geekiest, and so forth.[22]

14. *Exclusion or boycott.* Intentionally excluding a person from an online group, a chat room, a game, or an IM buddies list.[23]

15. *Trolling*. Intentionally posting provocative messages about sensitive subjects to create conflict, upset people, and bait them into "flaming" or fighting.[24]

16. *Cyber bullying by proxy.* Convincing others to send flame or hate mail to the victim and then, when the victim responds, forwarding responses to an authority figure who then punishes the victim.

17. *Poking*. Reaching out and virtually touching someone online. Basically when a friend is poked on a social network site like Facebook, MySpace, or Bebo, the person receives a message notifying them of the contact. Not all pokes are harmless.[25]

18. *Happy slapping*. Intentionally provoking an unwitting individual into a physical altercation with a tormentor(s). An accomplice videotapes or photographs the attack, typically using a camera cell phone. The perpetrators then post the video online. The victim does not realize the event was captured electronically. [26]

Common Examples

Examples of these methods of cyber bullying appear in court cases and news reports. For example, denigrating and polling significantly affected one 15-year-old student's life. The child privately filmed himself dancing around his bedroom portraying a *Star Wars* character wielding a pretend light saber. Inadvertently the child left his videotape at school, where other students uploaded it online and invited viewers to make insulting remarks about the clip. The popularity of the two-minute *Star Wars Kid* video resulted in over 15 million hits and over 106 clone video productions.[27] The vicious comments resulting from the dissemination were so mortifying that the child dropped out of school and finished the semester in a children's psychiatric ward.

According to the statement of charges in the lawsuit that was filed, the teenager claimed that the fallout from the posting "was simply unbearable, totally. It was impossible to attend class."[28]

A recent Florida case demonstrated how happy slapping affected a young cheerleader. She was knocked unconscious, suffered from a concussion, and experienced severe bruising around her head. The beating was so severe that her father did not recognize her. The case involved six teenagers heinously attacking a schoolmate. The purpose of the attack was to create video content for posting to YouTube. After luring her into a private home, they took turns hitting her, screaming at her—all the while videotaping the incident. One offender was recorded saying, "Make this 17 seconds good."[29]

Sexting is another increasingly popular method of cyber bullying among high school students. Twenty percent[30] to 30%[31] of teenagers report some level of engagement in the activity. In 2008, the National Campaign to Prevent Teen and Unplanned Pregnancy and CosmoGirl commissioned a survey to quantify the number of teens and young adults who post sexually suggestive text or nude or seminude photos, videos, or images.[32] Their results indicated that overall 20% of all teens engage in this conduct. A breakdown of their results further revealed that 22% of teen girls, 18% of teen boys, and 11% of young teen girls (ages 13–16) self-reported participating in the activity. Unfortunately, serious consequences have resulted from participating in sexting. Criminal child pornography charges have been filed. If convicted, the child offenders are required to register as sex offenders. Some schools report suspending the sexting offenders. A most disturbing outcome of such cyber aggression has been the suicides of two children.[33]

Sexting is becoming a greater social concern. Educators, law enforcement agencies, and lawmakers are now exploring alternative ways to control the use of cell phones for sexual interaction and exploitation. Criminal prosecution of the conduct under current statutes results in harsh consequences. Prosecution stigmatizes youth for long periods of time because of sexual offender registration requirements and limited employment possibilities. Less punitive alternatives are being explored.

Calibrated responses are under discussion in a number of state legislatures. Vermont is considering exempting a child from child pornography prosecution when the juvenile offender voluntarily transmits or receives his or her own image. However, the conduct could still be prosecuted under lesser charges, such as for lewd and lascivious conduct or for disseminating indecent materials to a minor. In a similar vein, Ohio is weighing whether to make juvenile sexting a first-degree misdemeanor offense, thus distinguishing juvenile offenders from

adult offenders, who would be prosecuted as felons.[34] Kentucky is mulling over levying fines on teens caught sexting. Illinois is considering adding alternative responses to its child pornography law. Specifically, Illinois lawmakers are contemplating mandating counseling, community service, and other responses in lieu of incarceration if a minor engages in sexting.[35] As these various responses indicate, all agree that the conduct needs to be addressed. How to handle it is the rub; should it be through prosecution, decriminalization, treatment, education, or something else?

Statistical Evidence of the Problem

As is evidenced by the variety of techniques mentioned above, cyber bullying is different from traditional bullying. Cyber bullying differs in the method of victimization. It also differs in that it can happen 24 hours a day and seven days a week. Technology affords new platforms for abuse and amplifies its negative effects. Clearly, cyber bullying reaches beyond the schoolyard. Cyber bullying affords the bully a veil of anonymity, instantaneous access to the victim, and an unlimited audience of bystanders and supporters. The victim cannot escape the digital message disseminated by the tormentor.

A review by TopTenREVIEWS of the most popular social networking websites revealed six sites that were available free to children under 16.[36] Five of the six sites allowed children as young as 13 to join. MySpace was the exception, setting its minimum age at 14. The percentage of minors and others reported using these websites was considerable. The potential for inappropriate contact and access by strangers and predators was apparent. Only the Bebo site made profiles "private" automatically upon creation. (For the others, newly created profiles were automatically made public, and extra steps were necessary to keep information private.) However, the Bebo site did not further limit its "private" option to individuals whom users had identified as "friends" or to the friends of such identified friends.

All sites have the capacity for creating safety precautions. Protection is afforded by allowing users to limit access to those they choose on an individual basis or allowing them to set minimum and maximum ages of those who may view their accounts. It's open to question how many children comprehend the risks, are tech savvy enough to manually alter the default settings, and actually take the time to adjust them. Figure I.2 summarizes the extent of participation by children in social networking websites.

Figure I.2   Child Participation in Social Networking Websites

Website	Total Number of Users	Popularity Ranking	Minimum Age	Percentage of Those Using Website Who Are Minors
Facebook	93,300,000 unique monthly visitors[37]	1	13	36
MySpace	61,300,000 unique monthly visitors[38]	2	14	33
Bebo	5,400,000 unique monthly visitors[39]	3	13	54
Friendster	2,400,000 unique monthly visitors[40]	4	16	3
hi5	4,100,000 unique monthly visitors[41]	5	13	24
Orcut	475,000 unique monthly visitors[42]	6	18	4
Perfspot	user numbers unavailable	7	13	32
Yahoo! 360	Shut down July 13, 2009[43]	8	18	16
Zorpia	83,975 downloads[44]	9	16	15
Netlog (popular in Europe)	35,000,000 registered users[45]	10	13	31

Cyber aggression interferes with student learning. It also prevents students from achieving their potential. The injury is usually intangible but includes loss of reputation, loss of associations, and intentional infliction of emotional distress. Often cyber aggression leaves the victim feeling humiliated, threatened, and powerless.[46] Children who are bullied, teased, harassed, or ostracized are not the only victims. The climate of disrespect and fear created by cyber aggression also affects bystanders, family members, teachers, and administrators. Results include educational losses, mental and physical health issues, and lost productivity.

A 2001 national survey reported that the inappropriate usage of technology is problematic to more 8- to 15-year-olds than issues concerning violence, drug and alcohol usage, racism, or the pressures to have sex.[47] Fifty-five percent of 8- to 11-year-olds reported bullying and

teasing as their biggest problem, whereas only 46% reported violence as a big problem, 44% reported alcohol or drugs as a big problem, and 33 % reported pressure to have sex as a big problem. Somewhat similarly, 68% of 12- to 15-year-olds reported bullying and teasing as their biggest problem, 68% identified alcohol or drugs as a big problem, 62% reported violence as a big problem, and 49% reported pressure to have sex as a big problem.

So how does this biggest problem relate or connect to schools, school administrators, teachers, and staff? The extent of electronic aggression is now so alarming that the Centers for Disease Control and Prevention recognize it as an emergent health risk affecting nearly 75% of teenagers between the ages of 12 and 17.[48] Furthermore, according to a 2008 California study, of the 75% who were bullied online, 85% had been bullied at school, and 51% of them reported that the bullying was done by schoolmates.[49]

Other studies found a minimum of 9% to 35% of all school-aged children[50] and 42% to 53% of children in fourth through eighth grades[51] have been cyber bullying victims. Every day, 160,000 children miss school because they fear bullying.[52] Worse yet, although all bullying behavior has been identified as increasing suicidal ideation, cyber bullying is reportedly a stronger predictor of suicidal thoughts than regular bullying. Cyber bullying victims are almost twice as likely to have attempted suicide as youth who have not experienced cyber bullying.[53]

A 2009 survey conducted by the Associated Press (AP) and MTV reported the potential for even more gruesome consequences if young victims are involved.[54] The AP-MTV study found that middle school victims of cyber bullying are more apt to commit suicide than are all other victims. Significantly, the study found that 8% of cyber bullying victims and 12% of sexting victims have considered ending their own lives, as compared to 3% of people who have not been bullied and were not involved in sexting. Another alarming study from the U.S. Secret Service and Department of Education reports that 71% of the 41 students who shot others at their schools between 1974 and 2000 had been bullied, cyber or otherwise.[55]

These studies show that electronic aggression is not only pervasive, but its associated effects are increasingly significant. Primary effects include emotional distress, depression, suicide, and loss of interest in learning. Conduct problems including increased risk of substance abuse, truancy, and in-person victimization also occur. Children do not have the coping or cognitive skills to insulate themselves from the undesirable effects of cyber bullying. Hence the

victims often respond inappropriately by engaging in conduct that further damages themselves or others.

Confronted with the alarming statistics that students abuse and exploit technology, educators must learn how to address this emergent health and safety threat. Schools have a responsibility to promote an educational environment that is safe and conducive to learning. To protect student victims, bullies, bystanders, and educational institutions, teachers and administrators must remain informed about the legal implications of electronic media use and personal expression. When censorship of student expression occurs, schools bear the burden of showing the correlation between the students' expression and the negative effect on the school environment. Hence, this handbook focuses on the following:

- The legal limits within which schools can sanction and regulate a student's ability to create, post, and access online communications under basic First Amendment law.
- The impact of existing legislative and policy provisions in place or being developed on national and local levels.
- Suggested considerations for structuring a solution to digital indiscretions.

The solutions will be presented using a scoring rubric, referred to in this manual as the school sanctioning MATRIX. This MATRIX provides a useful tool for school administrators to reference when dealing with the disciplinary issues surrounding cyber bullying situations. Further, the MATRIX provides a structured point system for determining disciplinary outcomes by balancing aggravating and mitigating circumstances based on school district policies; on federal, state, and local legislation; and on the intensity, duration, and frequency of student conduct.

Challenges Created by Inappropriate Cyber Expressions

A wide assortment of conduct is encompassed by the broad definition of cyber bullying. As a result, sanctionable inappropriate cyber expressions are often difficult to discern from immature, rude, and obnoxious comments and postings. Additionally, the ability of schools to monitor student expression often competes with the interest of protecting free speech. Even the Supreme Court acknowledges that

"there is some uncertainty at the outer boundaries as to when courts should apply school-speech precedents."[56] Furthermore, the measuring stick justifying censorship is subject to localized and regionalized interpretations of Supreme Court decisions predating or not involving the widespread usage of personal computers, cyber technology, or the Internet as a communication medium.

Regulating student speech is not an exact science. This handbook discusses factors that should be considered by school personnel when intervening or regulating on- and off-campus expressive behavior by students. The handbook also provides guidance to educators for restraining high-tech incivility among students.[57] These measures ensure a safe and appropriate learning environment without sacrificing the constitutional rights of children, society, and educational institutions. Court precedents and legal concepts germane to cyber bullying behavior provide practical guidelines and structure for determining if a particular student expression exceeds constitutional protection and thus may be regulated or restricted.

Often debated is the degree to which a school should involve itself in the social, nonacademic aspect of student relationships. Should schools serve as the morality police for our children, monitoring as gatekeepers inappropriate cyber expressions? On one side of the debate, some believe that cyber bullying is just uncivil behavior that should be discouraged but not really controlled or legislated.[58] They believe that reports of cyber incidents are mostly media hyperbole, creating an unnecessary cause for expression control. Children have always made mean comments and shared hateful messages with each other about their peers and authority figures. There was no need then, nor is there now, to create formal policies or practices to control this behavior.

On the other side of the debate are those who support school intervention.[59] Most school administrators and school boards fall on this side of the debate. These individuals claim that cyber expression is different from traditional student-to-student expression. Cyber bullying reaches far beyond the classroom and the schoolyard. In traditional forms of bullying, the perpetrator and the victim are face to face, and the audience is limited to those present at the scene. The victim knows the offender(s). The bullying incident, although it can be sustained over time, is limited by the actual contact between the perpetrator and the victim. The victim can escape the tormentor by retreating to a safe place, such as the home or school.

Cyber bullying is different. Cyber expression affords the tormentor(s) a veil of anonymity. Technology instantly provides 24/7 access to

the victim, regardless of whether or not the victim is online. This victimization occurs before an unlimited, Internet-based audience of bystanders and supporters. Participation by perpetrators can grow exponentially, as bystanders access or contribute to the inappropriate cyber expressions. The victim cannot escape the electronic message by walking away, closing a door, or turning off the technology. The hateful message remains in cyber space as a cyber footprint. It lurks until the technology is once again activated or a friend's (bystander's) social networking connection is made. Advocates favoring school regulation cite examples of real-life incidents where cyber comments resulted in serious consequences.[60]

Regardless of one's position on this topic, all agree that schools are not immune from student-on-student emotional, psychological, and physical violence. Society, schools, and courts recognize the seriousness of expressions made by students against others. In fact, school violence is such a grave concern in today's world that a Massachusetts court took judicial notice of the actual and potential violence in public schools.[61] The events at Virginia Tech and the school shootings that occurred during 2008 involving Memphis's Hamilton High School, Louisiana Technical College, and Northern Illinois University confirm the gravity of school violence and the escalation of the incidents.[62]

The initial challenge for K–12 school officials is in differentiating inappropriate and sanctionable online expression from free and protected speech. Court cases provide conflicting messages to school administrators. On the one hand, the courts encourage schools to protect students from expressive harm. The Supreme Court emphatically states that schools do not need to tolerate student speech that is inconsistent with their basic educational mission even though the government could not censor similar speech outside the school. Courts have held that schools may regulate speech that interferes with the schools' work or the rights of other students to be secure and let alone. Student speech that assaults another student on the basis of a core identifying characteristic (race, religion, and sexual orientation) may be sanctioned.[63] Those attacks are harmful to minority students' self esteem and their ability to learn. This, however, is not true for attacks based on gender or for nonspecific emotional harm.

Courts tell school officials that they have an affirmative duty to prevent harm. Not only must schools ameliorate the harmful effects of disruptions, they must also prevent harm from happening in the first place.[64] In fact, in March 2010, the Hudson Area School District

in Michigan was ordered to pay $800,000 to a student who claimed the school did not sufficiently protect him from years of bullying.[65] The victim endured the systemic attacks from sixth through ninth grade. The incidents included over 200 occasions of name calling (*queer, faggot, pig, Mr. Clean*) in seventh grade alone. He also endured numerous other attacks, such as shoving him into a school locker, urinating on his clothes, and mocking him in classes. The attacks escalated to a point where the victim was stripped naked and cornered in the locker room, and a junior varsity (JV) baseball teammate rubbed his genitalia in the victim's face. The perpetrator was expelled for the few days that remained in the school year but was permitted to attend the school sport banquet. The victim's parents sued under Title IX of the Elementary and Secondary Education Act (ESEA). The court case concluded that the school did not sufficiently employ techniques to curtail the harassment. The school's methods for dealing with peer-on-peer harassment were repetitious, insufficient, and ineffective in stopping the ongoing abuse. The school's actions amounted to a deliberate indifference to the victim's needs.

Although the school administration engaged in a number of interventions, the court concluded that their actions still showed deliberate indifference to the student's needs. Some of the actions taken by the school included parent-teacher conferences, principal conferences, school counselor conferences, special education reviews, evaluations of the victim by the school psychologist, and multidisciplinary evaluation for special education services, with a subsequent assignment to a resource room teacher per an individualized education program (IEP). The IEP team reassigned the victim to regular ninth-grade education courses. The taunting, name calling, and overt aggressive behaviors continued and escalated. Throughout the ordeal, the school met with the offending students and sanctioned them accordingly. However, each time students were reprimanded, a new perpetrator would begin the cycle of abuse.

Although the school did not turn the proverbial blind eye to the abuse, neither did it adjust its remedies to end the matter. While effective for stopping individual perpetrator violence, repeating the same sanctions over and over did nothing to stop the systemic abuse. The unacceptable reaction given by the JV baseball coach illustrates this point. The coach held an all-team meeting telling the players to tease only "men that could take it."[66] The ease with which such a statement was made indicates a tacit tolerance of the bullying

behavior. The subsequent sanctioning of offenders did not offset the de facto tolerance permeating the school's attitude. The school had to not only sanction the offenders but also send a commanding message to all stakeholders that such conduct would not be allowed.

On the other hand, the broad authority to sanction expressions has frequently been found to intrude upon the rights of parents to "direct the rearing of their children."[67] Schools may not sanction students' expression merely because students take offense, they fear gossip, their feelings are hurt, they feel insecure, they missed a few classes, or they or their parents are concerned over the student's reputation. Likewise, a de minimis or unsubstantiated fear that the expression might lead to violence is not sufficient for disciplinary actions. "To allow the school to cast this wide a net and suspend a student simply because another student takes offense to their speech, without any evidence that such speech caused a substantial disruption of the school's activities, runs afoul of the law."[68]

In 2009, a California court found against a Beverly Hills school for suspending an eighth-grade student who posted a video on YouTube stating that another student was a "slut," "spoiled," and "talks about boners."[69] The victim and her mother reported the incident to the school counselor. The victim cried, did not want to go to class, felt humiliated, and had hurt feelings. An investigation was conducted, and the school administration demanded that the perpetrator delete the video from YouTube and her home computer. The school counselor contacted the principal, who discussed with the district director of pupil personnel "whether the school could take disciplinary action against plaintiff [perpetrator] for posting the video on the Internet."[70] The district director then discussed the situation with school attorneys and was advised to issue a two-day suspension to the plaintiff. The California district court sided with the student perpetrator, holding that her free speech rights had been violated and that the suspension was improper.

Many cyber expressions have the potential of causing harm or are hurtful, uncivil, or rude, but not all may be regulated or formally restrained. No precise definition or universally acceptable approach for handling online student postings has been proclaimed. The Supreme Court has yet to decide a case concerning school censorship of student expression specifically involving online postings. Lower courts that have addressed the issue are not all in accord. However, most courts do agree that regardless of whether the speech occurs in the physical world or the virtual world, the First Amendment of the Constitution controls its regulation.

State Remedies

Just as the courts have given schools conflicting and confusing messages, so have many state statutes. Some state statutes and state school codes seek to provide students with greater protection than the Constitution provides. Emerging legislation attempts to restore or protect students' rights to free speech. Connecticut, for example, believes that schools have gone too far in restricting free speech. In support of Connecticut's *Senate Bill 1056*, Patrick Doyle of the American Civil Liberties Union stated,

> But we should also protect the rights of parents to raise their own children, the rights of faculty to uphold free speech without fear of discipline, and the ability of school administrators to run their schools without the threat of litigation based on student speech.[71]
>
> At the end of the school day, parents should have the right to teach values and control their children's behavior. The school's teaching mission should not extend into the home to trump the rights of parents to raise their children.[72]

States such as Connecticut and Nebraska are attempting to provide students with the same guarantees of free speech in school that they have out of school. California has given students the same guarantee, with the exception that students must use proper English.[73] These codified variations make it more difficult for schools to differentiate between actionable and inactionable expression over the Internet and between protected and unprotected speech. Furthermore, the state codes seem at odds with some court cases. The challenge is further complicated by the Internet's omnipresence off and on public school campuses. The dividing line between the schools' disciplinary authority no longer begins or ends at the schoolyard gate. Cyber expression sometimes may be regulated regardless of where it originated. Schools increasingly find themselves in uncharted waters. Administrators are making decisions with seemingly no safe or completely correct answer. The Supreme Court itself admits that "there is some uncertainty at the outer boundaries as to when courts should apply school-speech precedents."[74]

It is the purpose of this handbook to provide easy, understandable, workable, and consistent guidelines with which school personnel can address these challenges. By following the legal standards and using the school sanctioning MATRIX, school officials should

be able to reach fair, consistent, and just conclusions for handling incidents of cyber aggression.

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