

Upcoming Changes to Your County's Bullying, Harassment and Intimidation Policy

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[House Bill 3225](#) was approved by both the House and the Senate, and is awaiting the Governor's signature. If signed by the Governor, which is expected, each county board of education is required to update their Bullying, Harassment and Intimidation Policy.¹ The Bill amends both West Virginia Code §§ 18A-2C-2 and 18A-2C-3, and [West Virginia State Board of Education Policy 4373](#) (Student Code of Conduct).

[House Bill 3225](#) expands the definition of harassment, intimidation or bullying to include cyber-bullying. Specifically, the amendment reads as follows:²

(a) As used in this article, "harassment, intimidation or bullying" means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat . ."

The newly expanded definition also includes acts that would physically or emotionally harm a student, as well as conduct that disrupts or interferes with the orderly operation of schools. Specifically, the amendment reads as follows, providing that any of the acts set forth above constitute harassment, intimidation or bullying IF:

(a) (1) A reasonable person under the circumstances should know [the conduct] will have the effect of any one or more of the following:

(1) (A) Physically harming a student;

(2) (B) Damaging a student's property;

(3) (C) Placing a student in reasonable fear of harm to his or her person; or

(4) (D) Placing a student in reasonable fear of damage to his or her property; or

(b) (2) Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or emotionally abusive educational environment for a student; or

(3) Disrupts or interferes with the orderly operation of the school.

(b) As used in this article, an electronic act, communication, transmission or threat includes but is not limited to one which is administered via telephone, wireless phone, computer, pager or any electronic or wireless device whatsoever, and includes but is not limited to transmission of any image or voice, email or text message using any such device.

[House Bill 3225](#) also expands the areas where harassment, intimidation or bullying is prohibited to include school buses and bus stops. Specifically, the amendment reads as follows:

- (1) A statement prohibiting harassment, intimidation or bullying of any student on school property, a school bus, at a school bus stop or at school sponsored events

As we all know, educators and school administrators find an increasing amount of student internet content posted by students to be offensive or threatening to other students and staff members. Prior to [House Bill 3225](#), the [Student Code of Conduct](#) and similar policies' applications were expressly limited to student conduct during education-sponsored events and school-sponsored activities. But, schools are not and have not been powerless. [House Bill 3225](#) only restates what the existing law is and has been for a number of years. That is, schools may discipline students that generate offensive or threatening internet content off school premises as long as the content materially disrupts the educational process or school operations, or presents a reasonable risk of disruption.³

It is recommended that county boards of education provide training to employees, in particular building administrators, as well as providing education to students, on topics such as "cyber-bullying" and "sexting".⁴ [House Bill 3225](#), along with cyber-bullying issues, understandably creates apprehension among building administrators. With updated training, this-apprehension could be eased by providing education to all concerned regarding how to navigate this scary new world of cyberspace within the context of the school environment.⁵

Should you have any questions on this issue or any issues please feel free to contact a member of Dinsmore & Shohl's [Education Law Practice Group](#).

(1) The amended code requires that county board shall adopt the policy and submit a copy to the State Superintendent of Schools by December 1, 2011.

(2) The amendments are underlined.

(3) [Free Speech Rights of Students Present "Cyber-Troubles"](#), May 4, 2010, Jason S. Long

(4) [Tips for School Administrators on How to Handle "Sexting"](#), March 1, 2010, Jason S. Long and Jennifer S. Caradine.

(5) For example, we have done workshops on: What can school districts do to protect their communities from offensive or threatening student cyber-activity?