**Resolved: United States public K-12 schools should be allowed to regulate students' off-campus electronic speech**

**Edited by: Rob Layne**

PRO CASE 2

CON CASE 7

## PRO CASE

**My partner and I affirm the resolution “Resolved: United States public K-12 schools should be allowed to regulate students' off-campus electronic speech.”**

**Contention 1) Cyberbullying:**

**Sub Point A: There is an increased rate of cyberbullying off-campus.**

**Veronikis '14**

(Eric. Reporter at PennLive/The Patriot-News Co. Kutztown University of Pennsylvania. "5 Students, school districts struggle with cyberbullying across midstate and U.S."<http://www.pennlive.com/midstate/index.ssf/2014/04/midstate_school_districts_stru.html)>

Cyberbullying is a relatively new, malignant disease that teachers and administrators are battling, but don’t have a cure for in a rapidly expanding social media world. Cyberbullying has evolved in the social media realm that spawned during the past decade.More than half of the country’s young people, 55 percent, have reported being cyberbullied; and of the young people who reported cyberbullying incidents, one-third of them said their bullies issued online threats, according to 2014 statistics published by nobullying.com.“Bullying used to end at the end of the [school day]. And now it continues through the world of cellphones and computers,” said Michael Black, assistant principal at Carlisle High School. “So things that are happening at night, now are going around the school. Bullying used to be one-on-one. And now it can become five-on-one very quickly.”

**And, Cyberbullying is more likely to happen off campus.**

**Virginia Department of Education, 2008**

("Cyberbullying and School Policy" Information brief. [http://www.doe.virginia.gov/support/technology/info\_briefs/cyberbullying.pdf)](%20http://www.doe.virginia.gov/support/technology/info_briefs/cyberbullying.pdf))

Cyberbullying frequently occurs off campus, which further clouds its potential impact on school discipline. Even when students cyberbully on campus but use their own technology-communication devices (e.g., cell phones, BlackBerries, laptops), it is harder to bully on campus and  schools may not be able to take disciplinary action. Furthermore, it remains to be seen if schools can punish students for off-campus Internet communications that can be accessed on campus; for example, schools may or may not have the authority to take action against a derogatory school popularity poll Web site

**Sub Point B) Schools are the Last Line of Defense**

**Elgot, '15**

(Jessica. breaking news reporter for the Guardian. She was previously the Huffington Post UK's assistant news edit. "One in Five Young People Suffered Online Abuse, Study Finds." Guardian. https://www.theguardian.com/society/2015/sep/22/cyberbullying-teenagers-worse-than-drug-abuse-says-report)

[Cyberbullying](https://www.theguardian.com/society/cyberbullying) is a worse problem among teenagers than drug abuse, according to almost half of all young people surveyed in a new study that finds one in five has experienced online abuse. In the global YouGov survey of more than 4,700 teenagers from across the world, a fifth of those who had experienced cyberbullying said it had made them consider suicide, and more than half said being taunted online was worse than being bullied in person. A quarter of those bullied closed down social media accounts and more than a fifth skipped school, the survey commissioned by Vodafone found. Of those who were bullied, almost 40% did not tell their parents, citing feelings of shame or fear. At the point of which the students do not want to tell their parents, the school system is the last line of defense for mitigating such threats.

**Sub Point C) Impacts**

**Students who are bullied are more likely to act violently.**

**Donegan 2012**

(Richard. MA Strategic Communication. Elon University. "Bullying and Cyberbullying: History, Statistics, Law, Prevention and Analysis" <https://www.elon.edu/docs/e-web/academics/communications/research/vol3no1/04doneganejspring12.pdf>)

The extreme consequences of bullying are suicidal thoughts or thoughts of violent revenge. According to a National Vital Statistics Report, suicide is the 3rd leading cause of death among youth ranging in age from 15 to 24 (Anderson & Smith, 2003). Furthermore, the U.S. Department of Health and Human Services reported “substantial increases in both homicide and suicide rates among males from 2000 to 2003” (Fraizer, 2005). This statistic becomes chillingly relevant as more information is uncovered concerning the link between cyberbullying and suicidal ideation or action. According to Rigby and Slee, “Youth who are bullied or who bully others, are at an elevated risk for suicidal thoughts, attempts, and completed suicides” (Rigby & Slee, 1999, p. 119). Statistically both victims of cyberbullying as well as offenders proved to be much more likely to have attempted “bullycide,” the act of committing suicide due to the effects of bullying, than youth who had not been affected (High, 2007).

**And, students that are bullied are more likely to attempt suicide**

**Peart, ‘08**

(Karen Peart, Senior Communications Officer in the Office of Public Affairs and Communications at Yale University, “Bullying-Suicide Link Explored in New Study by Researchers at Yale” *Yale News* (July 16, 2008))

Researchers at Yale School of Medicine have found signs of an apparent connection between bullying, being bullied and suicide in children, according to a new review of studies from 13 countries published in the International Journal of Adolescent Medicine and Health. “While there is no definitive evidence that bullying makes kids more likely to kill themselves, now that we see there’s a likely association, we can act on it and try to prevent it,” said review lead author Young-Shin Kim, M.D., assistant professor at Yale School of Medicine’s Child Study Center. In the review, Kim and colleague Bennett Leventhal, M.D., analyzed 37 studies that examined bullying and suicide among children and adolescents. The studies took place in the United States, Canada, several European countries (including the United Kingdom and Germany), South Korea, Japan and South Africa. Almost all of the studies found connections between being bullied and suicidal thoughts among children. Five reported that **bullying victims were two to nine times more likely to report suicidal thoughts than other children were. Not just the victims were in danger: “The perpetrators who are the bullies also have an increased risk for suicidal behaviors,”** Kim said.However, the way the studies were designed made it impossible for researchers to determine conclusively whether bullying leads to suicide, Kim said. In addition, the authors report that most of the studies failed to take into account the influence of factors like gender, psychiatric problems and a history of suicide attempts. Kim said her interest in bullying grew several years ago when she visited South Korea and heard several new slang terms referring to bullies and their victims. The words reflected “an elaborated system of bullying,” she said.According to international studies, bullying is common and affects anywhere from 9 percent to 54 percent of children.

**Contention 2) Threats:**

**Sub Point A) Threats of violence are increasing now**

**Trump, ‘14**

(Ken S.,  M.P.A , “Schools face new wave of violent threats sent by social media and other electronic means, study says.”  (February  25, 2014), <http://www.schoolsecurity.org/2014/02/schools-face-new-wave-violent-threats-sent-social-media-electronic-means-study-says/> ).

More than one-third of violent threats to schools since the beginning of this school year were delivered by social media, email, text messaging, and other electronic forms, according to a new study by our national school safety consulting firm. “The cost of these threats in taxpayer dollars for police response, lost instruction time, and anxiety among students, teachers, and parents is staggering. School administrators and safety officials now face bomb, shooting, and other threats delivered and spread so rapidly on Facebook, through international proxy servers, by email, and in other electronic forms that they must have threat assessment protocols and crisis communications plans ready to go alongside of their traditional emergency response plans,” said Kenneth Trump, President of National School Safety and Security Services. We looked at 315 documented school bomb threats, shooting threats, hoaxes and acts of violence in 43 states during the first six months of this school year from August, 2013, through the end of January, 2014. And  concluded that the methods of threats were as follows: Electronic, including social media, email, text message 109 (35%), Bathroom graffiti 48 (15%), Note found in school 27 (9%), Phone threats 36 (11%), Verbal threats 31 (10%) Police refused to say how threat was delivered 56 (18%). As the school system, they are obligated to keep schools safe from such threats

**Sub Point B) Drugs Threats**

**Currently schools can regulate speech surrounding drug use.**

**Larson 2014**

(Lisa, a researcher for The Research Department of the Minnesota House of Representatives is a

nonpartisan office providing legislative, legal, and information services to the entire House. "Regulating Students’ Online Speech Under the First Amendment" <http://www.house.leg.state.mn.us/hrd/pubs/ss/ssonlspch.pdf>)

In Morse v. Frederick, 551 U.S. 393 (2007), a principal suspended a student for holding up a banner at a school-sponsored event with the message “Bong Hits 4 Jesus,” a slang reference to marijuana smoking. The court ruled that school officials can prohibit students from displaying messages that promote illegal drug use.

**Sub Point C: Mitigating Drug Use in Schools**

**Currently drug use is increasing in the status quo. The distribution and conversations of access to drugs happen off campus.**

**National Institute on drug abuse, 2010.**

("NIDA's Monitoring the Future Survey shows increasesin Ecstasy use and continued high levels of prescription drug abuse". Advancing AddictionScience. https://www.drugabuse.gov/news-events/news-releases/2010/12/teen-marijuana-use-increases-especially-among-eighth-graders)

Prescription drug abuse remains a major problem. Although Vicodin abuse decreased in 12th graders this year to 8 percent, down from around 9.7percent the past four years, other indicators confirm that nonmedical use of prescription drugs remains high. For example, the use of OxyContin, another prescription opiate, stayed about the same for 12th-graders at 5.1 percent in 2010. And six of the top 10 illicit drugs abused by 12th-graders in the year prior to the survey were prescribed or purchased over the counter. The survey again found that teens generally get these prescription drugs from friends and family, whether given, bought, or stolen

## CON CASE

**My partner and I negate the resolution: “Resolution: United States public K-12 schools should be allowed to regulate students' off-campus electronic speech”**

**Contention 1: Student Rights**

**Sub Point A: Regulating electronic speech violates the right to privacy and constitutes de facto censorship**

**Wheeler, 14**

(David R., Prof. of Journalism. Do Students Still Have Free Speech in School? Published by The Atlantic: <http://www.theatlantic.com/education/archive/2014/04/do-students-still-have-free-speech-in-school/360266/>)

In America, students do not lose their constitutional rights “at the schoolhouse gate.” **The protection of students’ rights to free speech and privacy—in and out of school—is essential for ensuring that schools provide both quality education and training in our democratic system and values**. Unfortunately, schools continue to demonstrate a disturbing willingness to abridge students’ rights. In recent years, educators have repeatedly disciplined students for speech critical of teachers and administrators. Likewise, we have seen a disturbing trend of schools—especially those providing important e-learning tools like laptops—monitoring students’ activities both on and off campus.

In 1965, when Mary Beth Tinker was 13 years old, she wore a black armband to her junior high school to protest the Vietnam War. The school promptly suspended her, but her protest eventually led to a landmark Supreme Court case: Tinker v. Des Moines. In their verdict, the court vindicated Tinker by saying students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” The 7-2 ruling ushered in a new era of free speech rights for students. First Amendment advocates basked in the glow of the Tinker decision for decades. However, the Internet has since complicated the meaning of the ruling, and those same advocates now worry **students’ rights to freedom of speech are again under attack. Schools regularly punish students for online comments, even if those comments are made away from school property and after school hours. Although some administrators target cyber-bullies, others punish students whose only offense is posting an online comment that the school doesn’t like.** The situation has inspired Tinker herself to tour the nation’s schools to revive student speech rights, nearly 50 years after her famous protest. “**The digital age, with its wonderful capacity to democratize speech, is so important to students’ rights, but also carries new and interesting threats to students’ rights**,” Tinker says. “**If we don’t encourage young people to use their First Amendment rights, our society is deprived of their creativity, energy, and new ideas. This is a huge loss, and also a human rights abuse**.”

**Sub Point B: Privacy must be protected**

**Noonan 13**

(Noonan, Peggy, Wall Street Journal Columnist, August, 2013. Noonan: What We Lose if We Give Up Privacy.<http://www.wsj.com/articles/SB10001424127887323639704579015101857760922>)

**A loss of the expectation of privacy in communications is a loss of something personal and intimate, and it will have broader implications**. That is the view of Nat Hentoff, the great journalist and civil libertarian. He is 88 now and on fire on the issue of privacy. "The media has awakened," he told me. "Congress has awakened, to some extent." Both are beginning to realize "that **there are particular constitutional liberty rights that [Americans] have that distinguish them from all other people, and one of them is privacy**." Mr. Hentoff sees excessive **government surveillance [and other similar breaches of privacy] as violative of the Fourth Amendment**.

**Contention 2: Ending censorship of student electronic speech is good policy**

**Sub Point A: Student speech is necessary to create safe, better schools**

**Wheeler, 14**

(David R., Prof. of Journalism. Do Students Still Have Free Speech in School? Published by The Atlantic: <http://www.theatlantic.com/education/archive/2014/04/do-students-still-have-free-speech-in-school/360266/>)

But some First Amendment advocates believe a subsequent law enacted by the North Carolina legislature in December 2012, the first of its kind, has gone too far. Intended to protect teachers from cyber-bullying, the law prohibits students from making any online comments meant to “intimidate or torment” a school employee. Such broad language creates two big First Amendment problems. First, schools can punish any speech as long as they can cite “intimidation.” Second, schools can punish students for comments made after school hours, in the privacy of their own home. “**You can’t equate online speech created on personal time with in-class speech, and it’s dangerous to try**,” says Frank LoMonte, director of the Student Press Law Center. “**Schools are so prone to censor and intimidate whistleblowers who complain about school conditions on school time. Students absolutely must have some safe space where they can complain when schools are dirty, dangerous, or overcrowded, without fear that the long arm of school discipline will reach out and grab them**.” **Student speech—often in defiance of administrators—has helped keep schools transparent. In September, students writing for an Ohio high school newspaper looked at public records and discovered that what their high school’s administration had called an “alleged assault” by a student was actually an alleged rape. In November, students at a Staten Island high school broke a story about how the answers to Department of Education standardized tests were posted online before the test was administered**. In the landmark Tinker case, the Supreme Court specifically warned schools that they could not forbid student expression simply because they wanted to avoid controversy. “In order for [a school] to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint,” the court said.

**Sub Point B: Allowing online speech to remain uncensored allows students to intervene against bullying**

**North 15**

(North, Anna. March 3, 2015. An Easier Way to Fight Bullying? <http://op-talk.blogs.nytimes.com/2015/03/03/an-easier-way-to-fight-bullying/?rref=collection%2Ftimestopic%2FCyberbullying>)

**Confronting a bully can be difficult, online or off. But a new study may suggest an alternative: Bystanders might be more willing to step in to help**, its author says, **if they’re able to do so without standing up to the bully directly**. For their study, Kelly P. Dillon, a graduate student in communication at Ohio State University, and Brad J. Bushman told 241 undergraduates they would be testing an online chat program. But during the “test,” the person supposedly charged with monitoring the chat began insulting one of the participants (who was actually a member of the research team). Only 10.4 percent of subjects directly intervened to address the insults — by, for instance, asking the chat monitor, ‘‘How are you being helpful at all right now?” A total of 68 percent, however, intervened indirectly, by giving the monitor or the chat program itself a bad evaluation. “**So many anti-bullying and anti-harassment intervention programs are ‘if you see something, say something,’ and this experimental data tells us that that’s a pretty high threshold**,” Ms. Dillon explained. “**There are so many other ways that people can intervene**.” She mentioned that the messaging app Yik Yak allows users to “down-vote” posts (that is, to express their disapproval by clicking a “down” arrow). After five down-votes, the post is removed — all without anyone having to say anything to an offensive poster directly. “**My data suggests the more indirect ways you can give people to intervene, the more likely it would be for them to intervene**.”

**Sub Point C: Student electronic censorship wastes money**

**Patchin 13**

(Patchin, W. Justin. September 17, 2013. Should Schools Monitor Students’ Social Media Accounts? http://cyberbullying.org/schools-monitor-students-social-media-accounts)

**There has been much discussion over the last few days about whether it is appropriate for schools to actively monitor the social media activities of students** (I participated in a HuffPost Live discussion about this issue earlier today). **At the center of this recent interest is Glendale Unified School District**, which is located in Southern California and has a middle and high school student population of about 14,000. **The district has contracted with Geo Listening**, (a Hermosa Beach, California-based tech company founded in January) **to monitor and keep track of the various things their student body says, posts, shares, and does online** (**at a cost of $40,500 for the school year**). The company states that it actively looks for anything online that could threaten the safety and well-being of students in the district, including cyberbullying and threats of self-harm. These could be posts that are initiated from school, or not; using school-owned technology, or not. The technology also allows for the flagging and reporting of drug use or class-cutting – or really anything publicly posted by a student that could be viewed as problematic to the school.