



Amended School Code Addresses Discipline of Student Electronic Misconduct

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By Jackie Wernz

A recent amendment to the Illinois School Code for the first time explicitly recognizes that students may be disciplined for certain narrow types of misconduct perpetrated by electronic means. Although school officials long have had the authority to discipline students for this and other types of electronic misconduct under case law, the codification in Illinois law is an important affirmation of that authority. School districts should ensure that their policies and procedures prohibit the many types of electronic misconduct for which students may be disciplined under the new law and other legal authority.

Public Act 097-0340, which became law on January 1, 2012, amends Section 10-22.6 of the School Code to include in the definition of “gross disobedience or misconduct” misconduct perpetrated by electronic means. 105 ILCS 5/10-22.6. Section 10-22.6 also now provides that a student may be suspended or expelled for one narrow type of electronic misconduct: certain types of threats made on Internet websites. Specifically, discipline may be imposed for an online threat if (1) the threat is an “explicit” threat against a school employee, a student, or any school-related personnel; (2) the threat was made on an Internet website that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made; *and* (3) the threat reasonably could be interpreted to threaten the safety and security of the target of the threat because of his or her duties or status as an employee of the school district or as a student of the school.

The authority of school officials to discipline students for electronic misconduct recognized in the amended law is not new. Specifically, courts across the country long have recognized that students may be disciplined for misconduct that occurs through electronic means if the misconduct has a sufficient nexus to the school environment and substantially disrupts or creates a foreseeable risk of substantial disruption to the educational environment or invades the rights of others. Similarly, the provisions of Public Act 097-0340 regarding threats codify legal precedent that allows discipline of students for “true threats” in the school environment.

Some may argue that because Public Act 097-0340 addresses discipline for only one type of electronic misconduct (certain Internet threats made in certain contexts), school officials are limited in disciplining students for other types of electronic misconduct. This reading of school district authority is not supported by longstanding case law in this area, however, which recognizes that there are many avenues by which school administrators can discipline students for electronic misconduct. Accordingly, it is important for school districts to ensure their policies and procedures reflect, but are



more expansive than, the amended School Code provisions, providing for discipline in the many different contexts in which electronic misconduct might arise.

More Information

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