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## BULLYING AND THE INTERNET Legal Rights and Obligations

According to I-SAFE, the nonprofit foundation dedicated to protecting youth online, in a survey of 1500 middle school students, 42% report being bullied, 58% report having hurtful or angry things said to them, and 53% admit to saying hurtful or angry things to someone online. Since 2007, Missouri has required every school district to have an anti-bullying policy to address bullying complaints between students.

In the last legislative session, the Missouri Legislature amended the requirement to obligate all school districts to specifically include “cyber-bullying” and “electronic communications” in their anti-bullying policies. Further, the Missouri Legislature amended Section 160.261 of the Missouri Statutes to specifically provide that a school district may discipline students for off campus conduct that negatively affects the school environment. Thus, school district officials and parents need to take seriously every report or mention of bullying or harassment, even if it occurs electronically through cell phones, digital cameras or Facebook, including bullying that may occur outside of school hours or off campus.

Bullying is defined in Missouri as intimidation or harassment that causes a reasonable student to fear for his or her physical safety or property. The statute includes, for example, physical actions (including gestures), oral or written communications and any threat of retaliation for reporting such acts. Now, Section 160.775 of the Missouri Revised Statutes also specifically includes cyber-bullying and electronic communications.

Under Missouri law, every school district is obligated to have an anti-bullying policy. In addition to defining bullying, the policy must require district employees to report behavior they consider to be bullying, including single actions, to their supervisor. School district policies should also provide explicit procedures for parents to report bullying.

“Cyber-bullying” is not expressly defined in the Missouri statute. Generally, however, it is understood to be harassing or otherwise being cruel to others by sending or posting harmful material or engaging in other forms of social cruelty using the Internet. At school, cyber-bullying may occur through the use of the district internet system, cell phones, digital cameras or PDAs while on campus. However, a school district should also make inquiries regarding any reported cyber-bullying that actually occurs off campus if there is a connection to the student's attendance or performance at school or if the conduct negatively affects the educational environment. For example, a threat made on Facebook at home in the evening may prevent a student from attending and/or performing well at school. As a result, if it is reported, it should be investigated as any other bullying complaint.

School districts get into trouble when staff do not report incidents to their supervisors and/or administrators do not follow up and investigate a complaint made. In recent cases in the national headlines, the primary complaint against districts was that the school district knew of rampant bullying, yet did nothing about it. The “seeming indifference of school officials” is often cited as the biggest criticism. Thus, it is crucial for school districts to react to every complaint, no matter how minor, and seriously investigate it. Now investigations in Missouri must also include all complaints related to internet, cell phone or other electronic communications. Since students tend to say things in cyberspace they may not say in person, this will likely further increase the amount of alleged cyber-bullying incidents for school districts to investigate.

The key for Missouri school districts is to have an anti-bullying policy that complies with the law, and to follow that policy with each and every complaint of bullying. No comment, mention or report of bullying should go without some further inquiry. At a minimum, questions should be asked of the students involved, and information may be passed onto parents. Furthermore, Missouri law requires that school district employees receive training related to the content of the district’s policy. This instruction will be even more important with the addition of cyber-bullying and electronic communication to the meaning of bullying.

For more information, please contact your Lashly & Baer attorney or [Lisa O. Stump](#) at (314) 621-2939.