

Handbook/Policy Assignment

I took this assignment as an opportunity to take a closer look at my own high school's student handbook. I was hired after the handbook had been reviewed and approved by the school board so this is the working document that I have been charged with enforcing. To be honest there's not much controversy or even substance in our current handbook but the following three things stick out to me against the backdrop of education law:

Policy 1: Dress Code Clause

Our dress code clause begins, "At Willow River students are expected to give proper attention to personal cleanliness and to dress appropriately for school and school functions. The guiding principle is that school is a place of business and learning. Students and their parents have the primary responsibility for acceptable student dress and appearance." It continues to list what attire "shall not" be accepted and ends with a vague catch all phrase about the school's right to decide what is acceptable or not.

Deviation from Law:

What I've already found to be missing from this clause is any discussion of clothing containing hate symbols or hate speech. That final phrase afforded me the flexibility needed to address a student donning a confederate flag ball cap a few weeks ago. But had that student or his parents pushed the issue, they may have had a point with regards to the lack of concrete policy regarding that particular symbol.

Case Citation:

Situations like this always bring me back to *Tinker vs Des Moines* where "A prohibition against expression of opinion, without any evidence that the rule is necessary to avoid substantial interference with school discipline or the rights of others, is not permissible under the First and Fourteenth Amendments". I would have a hard time, as the current principal, arguing that the student could be punished because his confederate flag ball cap, worn before and after school in the hallway, did not cause the substantial interference outlined in *Tinker*.

Policy 2: Bullying Prohibition Policy

"A safe and civil environment is needed for students to learn and attain high academic standards and to promote healthy human relationships. Bullying, like other violent or disruptive behavior, is conduct that interferes with a student's ability to learn and /or a teacher's ability to educate students in a safe environment. The school district cannot monitor the activities of students at all times and eliminate all incidents of bullying between students, particularly when students are not under the direct supervision of school personnel. However, to the extent such conduct affects the educational environment of the school district and the rights and welfare of its students and is within the control of the school district in its normal operations, the school

district intends to prevent bullying and to take action to investigate, respond to, and to remediate and discipline for those acts of bullying which have not been successfully prevented. The purpose of this policy is to assist the school district in its goal of preventing and responding to acts of bullying, intimidation, violence, reprisal, retaliation, and other similar disruptive and detrimental behavior.”

Deviation from Law:

Our bullying prohibition policy, as stated in our handbook above, lacks many of the components required by MN Statute 121A.03, .031, .0311. State law lays out the necessary components of a public school bullying policy and includes a model policy for schools to put in place until they flesh out their own in accordance with the law. Ours is lacking in many areas, including the discussion of cyberbullying; the most commonly cited and most difficult to curb form of bullying at my current high school.

Case Citation:

The courts have in large part steered clear of ruling on the concept of cyberbullying. For the most part, they have left the burden with the schools to define and enforce such policy’s under the existing Tinker vs Des Moines standard of protecting student 1st amendment unless that speech can be proven to directly interfere with the learning or safety of others. In *Kowalski v. Berkeley County Schools (2011)*, the court found that a school’s suspension of a student for what amounted to cyberbullying was warranted because it met that interference standard. Schools in other cases like, *Emmett v. Kent School District No. 415 (2000)* and *J.S. v. Blue Mountain School District (2011)* were found to fall short of proving that interference or possible disruption was likely enough to warrant dismissing the offending student.

Policy 3: Disciplinary Policy

Possible disciplinary actions listed in the handbook are Removal from Class, Detention, In-School Suspension, Referral to Behavior Intervention Program, Out of School Suspension, Expulsion, and Exclusion.

Deviation from Law:

There is little deviation from the Pupil Fair Dismissal Act as outlined in MN Statutes 121A.40-121A.575. In fact, our policy is an abbreviated version of that statute as written.

Case Citation:

The foundation for this legislation was laid over 40 years ago with the Supreme Court case of *Goss v. Lopez. 419 U.S. 565 (1975)*. In that case the court held that students have a legal interest that are protected under due process. The PFDA protects those rights.