

# TEEN CYBERBULLYING INVESTIGATED



Where Do Your Rights End  
and Consequences Begin?

JUDGE TOM JACOBS

## **Praise for *Teen Cyberbullying Investigated*:**

“Amid all the talk about cyberbullying, Judge Jacobs’s no-nonsense approach cites chapter and verse from actual court cases in a straightforward, thought-provoking way. He’s not out to preach, just to inform teens, parents, and educators about the possible consequences of their actions.”

—*Youth Today*

“Should be required reading for school administrators, teachers, parents, and young people when exploring the vast and still uncharted territory of the Internet.”

—Ian Zack, Executive Editor, *The New York Times Upfront*

“Among books recently published on this topic, this one distinguishes itself by covering more than 50 actual court cases involving teenagers. . . . Promoting the values of civility and ethical behavior makes this book an even more timely and valuable purchase.”

—*School Library Journal*

“Deals with the hot, contemporary topic of online teen harassment, by both teens and by adults. . . . Jacobs encourages readers to consider the viewpoints of victim, perpetrator, and bystander.”

—*Booklist*

“Thoroughly researched and fascinating. A must-read for young people and their parents and caregivers, not just in the United States, but worldwide.”

—Richard Piggin, Head of Operations, Beatbullying, London, England

“This book is at the forefront of cyberbullying literature. It has the capacity to inform school policy as parents, teachers, and principals race to find solutions for bullies and support for victims.”

—Kimberley O’Brien, Principal Child Psychologist, Quirky Kid Clinic, Australia

“A great tool to provoke dialogue and help bridge the ‘digital divide’ between teens and adults.”

—Dr. Jenny Walker, President, Cyberbullying Consulting, Ltd.

“Explains the ramifications of teen cyberbullying in a very readable format.”

—Stuart Nachbar, Educated Quest blog

“A must read [that] encourages teens and educators to think about the law and what it means for those involved in cyberbullying.”

—*Communiqué*, the newsletter of the National Association of School Psychologists

# TEEN CYBERBULLYING INVESTIGATED

Where Do Your Rights End  
and Consequences Begin?

JUDGE TOM JACOBS

free spirit  
PUBLISHING®



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#### Library of Congress Cataloging-in-Publication Data

Jacobs, Thomas A.

Teen cyberbullying investigated : where do your rights end and consequences begin? / by Tom Jacobs.  
p. cm.

Includes bibliographical references and index.

ISBN 978-1-57542-339-5

1. Cyberbullying—Juvenile literature. 2. Computer crimes—Juvenile literature. 3. Technology and law—Juvenile literature. I. Title.

HV6773.J32 2010

345.73'025—dc22

2009043293

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**Note:** The names, ages, schools, and locations of all persons in *Teen Cyberbullying Investigated* are real, except where noted. They have been taken from public records, published court opinions, and interviews with some of those involved.

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Reading Level Grades 7 & Up; Interest Level Ages 12 & Up;

Fountas & Pinnell Guided Reading Level Z

Edited by Meg Bratsch

Cover and interior design by Tasha Kenyon

10 9 8 7 6 5 4

Printed in the United States of America

S18860514

#### Free Spirit Publishing Inc.

Minneapolis, MN

(612) 338-2068

[help4kids@freespirit.com](mailto:help4kids@freespirit.com)

[www.freespirit.com](http://www.freespirit.com)

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## Dedication

This book is dedicated to my parents, Harry and Lucie Jacobs, for lighting and fanning the flame to read, study, and then play. It is also dedicated to Megan Meier, age 13; Rachael Neblett, age 17; Jeffrey Scott Johnston, age 15; Sam Leeson, age 13; Jessica Logan, age 18; Ryan Patrick Halligan, age 13; Holly Grogan, age 15; Megan Gillan, age 15; Hope Witsell, age 13; and all victims of cyberbullying and cyberharassment—especially those who ended their lives out of fear, frustration, and loneliness. The echo of their voices has been my inspiration.

**“A FEAR SO DEEP AND SO REAL SHE FELT HER ONLY  
WAY OUT WAS TO END HER LIFE.”**

—Mark Neblett, from *A Tribute to Rachael Neblett*  
([www.makeadifferenceforkids.org](http://www.makeadifferenceforkids.org))

## Acknowledgments

Considering the ages of the teens featured in this book, and the writing or drawing that got them into trouble, I thought it important to note what they are doing now. My research assistant, Anne Johnson, used her Internet skills and perseverance to locate most of the featured teens. Thank you, Anne, for everything you contributed to this project. My appreciation is also extended to Susan Armstrong, Maricopa County Law Librarian, whose attention to detail kept me current throughout this endeavor. Special thanks to Natalie Jacobs, Mike Olson, Jeffrey Jacobs, Jon Davis Wiley, Ed Truman, and Parry Aftab for their insights throughout the writing of the book, and to my new Facebook and MySpace friends: Julie, Colin, Austin, Taylor, Candace, Natalia, Kali, Amy, Matt, Chase, Parker, and Alex.

Appreciation is also extended to each of you who were willing to talk with me about your case. The light you shed on your story and comments to today's youth are valuable additions to each chapter. Hopefully readers gain some insight from your experience and become better equipped to express themselves responsibly.

Once again, Free Spirit Publishing has provided me a forum to discuss an important subject. My sincere thanks go to Judy Galbraith, John Kober, Meg Bratsch, Jenni Bowring, and Tasha Kenyon for their support and professionalism throughout the creation of this book. Tasha did an outstanding job with the graphics and cover design, and my editor, Meg, worked tirelessly to polish and complete the rough manuscript I submitted. Meg, your writing and organizational skills are greatly appreciated.

And finally, my sincere appreciation to Mary Beth Tinker, Ian Zack, Emma-Jane Cross, Richard Piggan, and Kimberley O'Brien for taking time out of their busy schedules to review the book and provide their kind words.

### **Note Regarding Offensive Language**

Some of the language in this book is, at first glance, profane and crude. It is not meant to shock, offend, or excite. Cyberbullying, by its very nature, is offensive. It is near impossible to tell these stories without the use of direct and accurate quotes from the teens involved. In the interest of free speech and presenting a meaningful study of cyberbullying, please consider any offensive language in the context for which it is presented. All quotes have been taken directly from the published opinions of the courts involved.

# CONTENTS

Foreword .....	xi
Introduction .....	1

## PART 1: CYBERBULLYING AND THE LAW

How Did We Get Here?	
The Internet and the First Amendment .....	8
Ethics in an e-World .....	16
State, Federal, and European Laws on Cyberbullying .....	17

## PART 2: CYBERBULLYING CASES

<b>Chapter 1: Does Location Matter?</b>	<b>27</b>
Case: <i>J.S. v. Bethlehem Area School District</i> (2002) .....	
<b>Chapter 2: How a Careless Email Can Turn Into a Federal Case</b>	<b>35</b>
Case: <i>Zachariah Paul v. Franklin Regional School District</i> (2001) .....	
<b>Chapter 3: Balancing Student Rights and School Responsibilities</b>	<b>45</b>
Case: <i>Justin Layshock v. Hermitage School District</i> (2007) .....	
<b>Chapter 4: Political Expression or Intentional Harassment?</b>	<b>53</b>
Case: <i>A.B. v. State of Indiana</i> (2008) .....	
<b>Chapter 5: When Does School Discipline Become Unconstitutional?</b>	<b>61</b>
Case: <i>Avery Doninger v. Lewis Mills High School</i> (2008) .....	
<b>Chapter 6: Do Libel Laws Apply Online?</b>	<b>71</b>
Case: <i>I.M.L. v. State of Utah</i> (2002) .....	
<b>Chapter 7: Litigating Lewdness</b>	<b>81</b>
Case: <i>Gregory Requa v. Kent School District</i> (2007) .....	



<b>Chapter 8: What’s the Issue—Content or Access?</b>	<b>93</b>
Case: <i>Jon Coy v. Canton City Schools</i> (2002)	
<b>Chapter 9: Free Speech or True Threat?</b>	<b>101</b>
Case: <i>Joshua Mahaffey v. Waterford School District</i> (2002)	
<b>Chapter 10: When Creative Writing Becomes Criminal Content</b>	<b>109</b>
Case: <i>Nick Emmett v. Kent School District</i> (2000)	
<b>Chapter 11: When Graphic Arts Get Too Graphic</b>	<b>115</b>
Case: <i>Aaron Wisniewski v. Weedsport Central School District</i> (2007)	
<b>Chapter 12: Prank or Plan?</b>	<b>123</b>
Case: <i>State v. Joshua Mortimer</i> (2001)	
<b>Chapter 13: Know Thy Student Handbook</b>	<b>131</b>
Case: <i>Jack Flaherty Jr. v. Keystone Oaks School District</i> (2003)	
<b>Chapter 14: Are You Responsible for Everything on Your Site?</b>	<b>139</b>
Case: <i>Ryan Dwyer v. Oceanport School District</i> (2005)	
<b>Chapter 15: So You Want to Be a Hacker?</b>	<b>147</b>
Case: <i>Justin Boucher v. School District of Greenfield</i> (1998)	
<b>Chapter 16: When Cyberbullying Turns Deadly</b>	<b>157</b>
Case: <i>United States v. Lori Drew</i> (2008)	
<b>Closing Statement</b> .....	<b>170</b>
<b>How to Do Legal Research</b> .....	<b>172</b>
<b>Glossary of Terms</b> .....	<b>174</b>
<b>Additional Web Resources</b> .....	<b>182</b>
<b>Sources</b> .....	<b>184</b>
<b>Index</b> .....	<b>189</b>
<b>About the Author</b> .....	<b>195</b>

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## **Where to Get Immediate Help**

If you are currently dealing with cyberbullying and need help right away, talk to a parent, teacher, counselor, or other trusted adult. Or contact one of these resources:

### **Wired Safety Online**

[www.wiredsafety.org](http://www.wiredsafety.org)

Click on "Getting Help" on the upper navigation menu.

### **BeatBullying**

[www.beatbullying.org](http://www.beatbullying.org)

Click "I Need Help" and follow instructions to obtain help.

### **National Teen Dating Abuse Helpline**

[www.loveisrespect.org](http://www.loveisrespect.org)

Call 1-866-331-9474 any time or use the Web site's live chat feature. All calls and chats are anonymous and confidential.

### **National Sexual Assault Online Hotline**

[www.rainn.org](http://www.rainn.org)

A free, confidential, secure service that provides live online help. Or call directly at 1-800-656-HOPE (1-800-656-4673).

### **National Suicide Prevention Hotline**

[www.suicide.org](http://www.suicide.org)

Suicide is never the answer. Getting help is the answer.

Call 1-800-273-TALK (1-800-273-8255) or text: 1-800-799-4TTY (1-800-799-4889). For international hotlines, visit [www.suicide.org/international-suicide-hotlines.html](http://www.suicide.org/international-suicide-hotlines.html).

If you or someone you know is in immediate danger, **call 911**.

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# Foreword

The year 2009 marked the 40th anniversary of the Internet, which has done more to transform the world than any technological advance since the printing press.

The Web has revolutionized communications, turned the business world upside down (nearly killing off entire industries, like music stores, and creating new ones, like social networking sites), and enabled people everywhere instant access to dizzying amounts of information. For young people, who today often begin typing on computers and cell phones before they can read and write, the distinctions between physical space and cyberspace are increasingly melting away.

As executive editor of *The New York Times Upfront*, a national news magazine for teenagers, I've come to realize that the Web is to this generation of young people what the playground, schoolyard, and shopping mall were to mine. It's where teens (and preteens) go to explore and socialize: they surf, carry on multiple IM conversations simultaneously, and fill their Facebook pages with photos, hourly updates, and—too often—diary-like confessions.

But it's also a place where they're extremely vulnerable to attack, from complete strangers and even people they know: today's cyberbullies. I have experienced the old-fashioned kind of bullying. As a fifth grader, I was tormented for almost a year by a boy who smacked me and challenged me to hit him back (I refused) until he lost interest and found other prey.

Those schoolyard bullies still exist, of course, but cyberbullying can be just as terrifying, though in a very different way: The aggression is carried out online, with victims subjected to harassment or public ridicule. And thanks to the viral nature of the Web, the audience can be virtually limitless.

According to the *Journal of Adolescent Health*, between a tenth and a third of young people have been victimized by a cyberbully, and schools around the nation are scrambling to create policies to deal with the phenomenon. Not surprisingly, as with most things

related to the Web, the law is still playing catch up when it comes to figuring out how to handle cyberbullying. But it IS beginning to catch up.

That's why Judge Jacobs's book is so valuable. Using real court cases and stories of both cyberbullies and their victims, he provides a road map to the current state of the law regarding online harassment. In addition, he offers practical advice on how to make sure your own online communications—including private emails and texts—don't get you into trouble.

It should be required reading not only for victims of this 21st century form of bullying, but also for school administrators, teachers, parents, and young people who need to have their wits about them when they're exploring the vast and still uncharted territory of the Internet.

Ian Zack  
Executive Editor  
*The New York Times Upfront*

# Introduction

Technology is likely part of your natural environment as a teen today. You were born into a technology-rich “wired” world, heavily influenced by the Internet. Consider these statistics:

- 16 million children ages 2 to 11 were online in May 2009. The 2- to 4-year-olds were exposed to the Internet while on their parents’ laps in front of a computer.
- Among 12- to 14-year-olds in the United States, 88% use the Internet. This figure trails Great Britain (100%), Israel (98%), and the Czech Republic (96%).
- More than 90% of teens are online and more than half of them have profiles on social networking sites.
- 85% of teens communicate through digital writing.
- 85% of high school students spend at least one hour daily on the Internet.

This Web-based culture has resulted in exciting new ways to communicate, learn, socialize, stay informed, entertain yourself, and foster your creativity. However, it has also presented new challenges for you and your friends that were not faced by your parents or grandparents, or perhaps even by your older siblings. For example, you may be asking yourself daily questions such as:

*“Are there limits to what I can do once I’m online?”*

*“How do I know who sees information once I post it on a Web site?”*

“THE INTERNET IS ALWAYS A WILLING LISTENER, ANY TIME OF THE DAY OR NIGHT.”

—Rachel Dretzin, “Growing Up Online,” *PBS Frontline*, 2008

- France has made access to the Internet a “human right.”
- Internet access is a “legal right” in Finland as of July 2010.
- In 2009, Uruguay became the first Latin American country to provide every student in public elementary school with a computer through The One Laptop Per Child program.

*“Can I share my feelings online about others—my classmates, teachers, or principal—without getting into trouble?”*

*“Can my school discipline me for what I do on my cell phone or my home computer?”*

*“Are there things I should never post or send online?”*

The growth of the Internet has added a new complexity to issues regarding your free expression as a student—both on and off school grounds. And in addition to opening up positive new ways to communicate, it has also given rise to endless new ways to threaten, harass, abuse, insult, and bully others. Gone are the days when bullying meant a shove in the hallway or an insult yelled across a classroom. Bullying has entered the digital age. With the click of a button or touch of a screen, a photo, video, or conversation can be shared with a few people in an email or text . . . or broadcast to millions on a Web site. Pictures and messages that used to be scribbled on paper and passed in class are now posted online.

Have you ever received a hurtful email, text, or instant message? Has someone made cruel comments about you on an online profile or blog? Has someone taken a picture or video of you at school or outside of school and posted it on a Web site like YouTube, MySpace, or Facebook? Have you sent what you thought was a personal message to a friend and later found out it’s all over your school? And finally, have you ever done any of these to someone else? If you answered, “yes” to any of these questions, you’ve been involved in *cyberbullying*.

### **A New Breed of Bully**

In Singapore, a 16-year-old girl created fake profiles on MySpace and Facebook in order to befriend kids she didn’t like at school. Once she connected with the kids, she turned on them with nasty insults. “The new breed of bullies is narcissistic (self-centered). They treat the Internet as their stage, with an instant audience of thousands—or even millions,” said Dr. Carol Balhetchet of Singapore Children’s Society.

Most cyberbullying involving kids and teens is done by their peers and occurs as early as 2nd grade. Cyberbullying takes many forms, with the most common being:

- sending insulting or threatening emails, texts, or instant messages directly to someone using a computer, cell phone, or other e-communication device
- spreading hateful comments about someone through emails, blogs, online profiles, or chat rooms
- stealing passwords and sending out threatening messages using a false identity
- building a Web site targeting specific people

This book provides an inside, in-depth look at the current cyberbullying epidemic. Presented here are real cases

of tweens and teens who were harassed or caught harassing others online, on camera, in a text, or using a cell phone. Some cases were harmless pranks or creative musings, while others caused serious emotional and physical injury to others. Your teachers, school administrators, and parents may be up to their ears in information about monitoring your use of the Internet and cell phones.

85% of middle school children report being cyberbullied at least once.

32% of American teens who use the Internet report some form of online harassment.

In a recent study, 72% of participants, ages 12 to 17, claimed they knew who was doing the cyberbullying.

**“KIDS DON’T KNOW HOW COMMON CYBERBULLYING IS, EVEN AMONG THEIR BEST FRIENDS.”**

—Professor Jaana Juvonen,  
Developmental Psychology  
Program Chair, UCLA

---

**It’s time for *you* to know about what’s happening to your peers, learn what your legal rights are, and decide for yourself how you will use these devices for your benefit.**

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Most of the teens discussed in this book engaged in cyberbullying behavior, whether their target was another person or the school

in general. And each of the teens paid a price, even those who eventually won their cases in court. Many served suspension days; others were hospitalized for evaluation or screened by a doctor or psychologist; some were banned from sports or other activities; and a few were expelled from school or jailed. In some manner, each teen and his or her family were adversely affected due to consequences at school, police involvement, legal proceedings, and, in a few cases, needing to relocate to another city.

In addition to perpetrators, several victims of cyberbullying are also discussed here, including Megan Meier, Rachael Neblett, Jessica Logan, Sam Leeson, Holly Grogan, Megan Gillan, Jeffrey Johnston, and Ryan Patrick Halligan. For these teens, experiences of being bullied online led to devastating ends. The Internet is a modern wonder with unlimited potential . . . but if abused it can also wreak havoc on individuals,

It's now more important than ever for you to **think before you click.**

### One Teen's Comments About the Internet

To be a teen is to be in the process of creating the adult you will one day become. Every new thing you are exposed to might be compared to a seed that, depending on whether it's one of the few that you choose to cultivate, may blossom in your adulthood.

Until very recently, these "seeds" were provided only by a teen's direct surroundings and the relatively limited and pre-selected things found in books and magazines, and on the radio and television. However, teens today have found a channel through which they can expose themselves to almost anything with just a click of a mouse. The Internet has changed our world immeasurably, affecting us socially and psychologically probably more than any other invention, and propelling us into a new age driven entirely by information.

With the aid of the Internet, we can observe the world as we might observe something through a glass wall, and though this cannot even begin to compare to learning about and experiencing things directly, seeing something through a



families, schools, and communities. Virtual-world speech often carries real-world consequences.

Attempts were made to personally interview each of the teens whose cases are presented in this book. Their thoughts and comments are reported in the “What Is \_\_\_ Doing Now?” section of each chapter. Thanks to all who contributed to this endeavor, and good luck in your current pursuits.

I’m always interested in hearing from teens about their experiences and questions. If you’d like to get in touch with me, you can contact me in care of:

Free Spirit Publishing  
217 Fifth Avenue North, Suite 200  
Minneapolis, MN 55401-1299

Or you can email me at [help4kids@freespirit.com](mailto:help4kids@freespirit.com)

I look forward to hearing from you!

*Tom Jacobs, J.D.*

glass wall is better than not seeing it at all. In this way, teens today are able to endow themselves with many more “seeds” than those of previous generations could have imagined.

The result—scary to some and inspiring to others—is that it’s easier than ever for kids to grow into an adult that is entirely different from the people among whom they were brought up. Growing up has never been devoid of bad influences, and the fact is that most teens slip up some time in their lives—whether they grew up in the 21st century or in the 1st. As the saying goes: “*With freedom comes responsibility.*” Part of being a teen is learning to have the responsibility to make the right decisions.

The Internet, like the world it imitates, is full of terrible and fantastic things, allowing young people more freedom than ever to choose who they will become, and, essentially, redefining what it is to be a teenager.

**—Theodora Ballew, freshman at North High School,  
Phoenix, Arizona, 2008**

Part 1

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# Cyberbullying and the Law

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# How Did We Get Here?

## The Internet and the First Amendment

Central to any discussion of cyberbullying is a document that was composed in 1789: the First Amendment to the U.S. Constitution.

AAAAATAAATAAAAATTAATTTTTAAAAATATTATTTATTTTTAAAAATATATTATAAAAATATAAAAATTTA

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; **or abridging the freedom of speech**, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

—*The First Amendment of the U.S. Constitution, ratified in 1791*

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In 1997, the United States Supreme Court stated that the Internet is protected by the First Amendment. This does not mean, however, that you can say anything you like about anyone without consequences. The First Amendment provides protection for speech that is *reasonable under the circumstances*. For example, you can't stand up in a crowded theater and, as a joke, yell "Fire!" without getting into trouble. Likewise, you can't post a threat online about hurting your teachers or classmates without facing examination, and, possibly, serious consequences.

The horrific events at Columbine High School in Colorado in 1999 remain fresh in the world's mind—when two students brought guns to school and killed 12 students, a teacher, and themselves, after posting threats of violence online. Since then, tension has grown between student free speech, particularly online speech, and school safety. Even so, as you will see in the cases discussed here, courts strive to interpret and apply the First Amendment as our Founding Fathers intended.

To ensure that your First Amendment freedoms are guaranteed in the fast-growing medium of cyberspace, the law must keep pace with the Internet. As a student today, you likely spend



## THE RIGHTS OF MINORS

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You may be wondering how the courts became involved with your personal expression in the first place. It wasn't that long ago that children and teens had no standing under the law. Kids were considered the property of their parents with no recognized individual rights.

In 1899, the country's first juvenile court was created in Chicago, Illinois, to deal with delinquent children. However, the question of student free expression received little attention until years later. In one of the earliest cases involving a minor, the Supreme Court of Wisconsin ruled in 1908 that school officials had the power to suspend two high school girls, Hazel and Mabel Dresser, for writing a "harmless" poem that ridiculed the school rules and was printed in a local paper. The girls' prank occurred off-campus and not at a school event or while they were under the control of the principal. Sixty years before the famous *Tinker* case (see next page), the court ruled that "school authorities have the power to suspend a pupil for an offense committed outside of school hours which has a tendency to influence the conduct of other pupils, to set at naught the proper discipline of the school, impair the authority of the teachers, and bring them into ridicule and contempt." The court said, "Such power is essential to the preservation of order, decency, decorum, and good government in the public schools."<sup>\*</sup>

### Rules of the St. Croix Jail

You must shut your mouth at noontime,  
You must shut it at recess,  
You must keep it shut at morning,  
And all other times, I guess.

When you get up to leave the room,  
Don't take a friend along;  
You must not once quit working hard,  
Because you know that's wrong.

Can't even stop to tie your shoe,  
To blow your nose or cough,  
Don't look up from your book at all,  
And don't you dare to laugh.

Just calmly wait 'til four o'clock,  
You know that comes 'round soon,  
And then you're free from prison,  
Until the next forenoon.

—Hazel and Mabel Dresser,  
*Wisconsin, 1906*

<sup>\*</sup> The suspension would end when the girls apologized and each paid the school a 40-cent fine.

The U.S. Supreme Court (a.k.a. “the Court”) exerts a powerful influence over the course of the nation and over the lives of all Americans—including students. It was not long before the Court weighed in on the matter of student free expression, and the judicial system began to recognize its role in education as more complex. In 1940, Supreme Court Justice Felix Frankfurter said, “The courtroom is not the arena for debating issues of educational policy.” In 1943, the Supreme Court decided that under the First Amendment, public school students may refuse to salute the flag or say the Pledge of Allegiance. The Court wrote that it must ensure “scrupulous protection of constitutional freedoms of the individual,” including the rights of children. “We can have intellectual individualism and the rich cultural diversities that we owe to exceptional minds only at the price of occasional eccentricity and abnormal attitudes.”

Then, in the landmark 1967 case known as *In re Gault*, which concerned the arrest of a 15-year-old boy in Arizona, the Court ruled that teenagers have distinct rights under the U.S. Constitution. *Gault* only involved the rights of minors who were arrested and charged with a crime, but it opened the door for courts to further expand the rights of minors.

### **Tinker and Student Expression**

Two years after *In re Gault*, the door opened wide when the Supreme Court decided the famous *Tinker* case. In 1965, the four *Tinker* children (John, Mary Beth, Paul, and Hope) and their friend Chris Eckhardt decided to express their opposition to the Vietnam War by wearing black armbands to school in Des Moines, Iowa.

This violated school policy and the students were sent home until they removed the armbands. In 1969, the Supreme Court ruled in their favor in what has become the *Tinker* standard for school censorship of student expression. Public school

**“WE NEED TO ENCOURAGE OUR YOUTH TO ENGAGE IN CONTROVERSY, NOT DISENGAGE FROM IT.”**

—John Tinker, commenting in 2009

**“I RECOMMEND INVIGORATING THE FIRST AMENDMENT BY USING IT. TEENS WITH THEIR CREATIVITY, CURIOSITY, AND, TO SOME, OUTRAGEOUS SENSE OF HUMOR, ARE NATURALS WHEN IT COMES TO HOLDING THE FIRST AMENDMENT TO THE TEST OF TIME, EVEN IN THESE TIMES.”**

—Mary Beth Tinker, commenting in 2009



Mary Beth and John Tinker with their armbands

“IT CAN HARDLY BE ARGUED THAT EITHER STUDENTS OR TEACHERS SHED THEIR CONSTITUTIONAL RIGHTS TO FREEDOM OF SPEECH OR EXPRESSION AT THE SCHOOL-HOUSE GATE.”

“STUDENTS IN SCHOOL AS WELL AS OUT OF SCHOOL ARE ‘PERSONS’ UNDER OUR CONSTITUTION.”

—both quotes from the *Tinker* decision

officials must tolerate student speech as long as it does not materially or substantially disrupt the educational environment or invade the rights of others to be secure.

The challenge today for schools and courts is applying the *Tinker* test to digital expression, which has become an essential part of kids’ lives. The *Tinker* court recognized that “personal intercommunication among the students is an important part of the educational process.”

### **Fraser and Offensive Speech**

In a 1975 case, the Supreme Court affirmed the *Tinker* decision, stating, “[T]he system of public education that has evolved in this Nation relies necessarily upon the discretion and judgment of school administrators and school board members, and we are not authorized to intervene absent violations of specific constitutional guarantees.” However, a little over a decade later, in the 1986 *Fraser* case, the Court

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**Public Schools v. Private Schools**

Be aware that the cases presented in this book regard public school students only. Generally, private schools are not required to recognize free speech or free press protections of student expression. “State action” (i.e., government involvement) is what triggers the First Amendment. These cases don’t apply to the private school student, unless your state has a law protecting private school students from First Amendment violations, such as California’s Leonard Law (Calif. Educ. Code 48950).

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addressed student expression again. This time, however, it did intervene, ruling against lewd and plainly offensive speech at school.

Matthew Fraser was a junior at Bethel High School in Washington. He gave a nominating speech for a fellow classmate before a student assembly. Matthew admitted that he deliberately used sexual metaphors and was suspended from school for three days. The Court upheld his suspension reasoning that “a high school assembly or classroom is no place for a sexually explicit monologue directed towards an unsuspecting audience of teenage students. . . . Public schools may prohibit the use of vulgar and offensive terms in public discourse.”

“THE UNDOUBTED FREEDOM TO ADVOCATE UNPOPULAR, CONTROVERSIAL VIEWS IN SCHOOLS AND CLASSROOMS MUST BE BALANCED AGAINST THE SOCIETY’S COUNTERVAILING INTEREST IN TEACHING STUDENTS THE BOUNDARIES OF SOCIALLY APPROPRIATE BEHAVIOR.”

—from the *Fraser* decision

**Hazelwood and School Censorship**

Shortly after *Fraser*, in 1988, the Court again narrowed the *Tinker* standard in a case involving written expression. The principal of Hazelwood High School in Missouri censored two stories in the school newspaper written by students in the journalism class. The articles dealt with the impact of teen pregnancy and divorce on teenagers, topics that were considered hot button issues by the school



and deemed inappropriate for inclusion in a student publication. The Supreme Court agreed with the school's action, holding that "Educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities" so long as their actions are reasonably related to the school's mission.

### **Frederick and Illegal Activity**

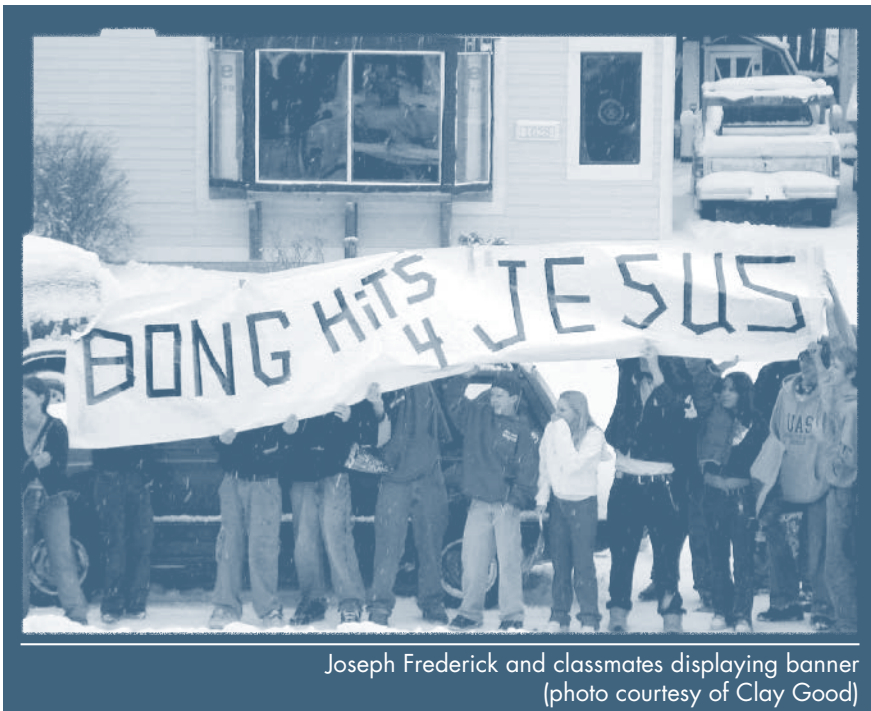
The principles of *Hazelwood* were extended in a 2007 Supreme Court decision involving a senior at Juneau-Douglas High School in Alaska. Joseph Frederick was suspended for 10 days for displaying a banner at a school

**"THE EDUCATION OF THE NATION'S YOUTH IS PRIMARILY THE RESPONSIBILITY OF PARENTS, TEACHERS, AND STATE AND LOCAL OFFICIALS, AND NOT OF FEDERAL JUDGES."**

—from the *Hazelwood* decision

**"IT IS THE INDIVIDUAL'S RESPONSIBILITY TO MAKE SURE WHAT THEY ARE SAYING IS LEGITIMATE AND CAN BE BACKED UP AND DOES NOT HARM ANOTHER."**

—Cathy Kuhlmeier, one of the *Hazelwood* student journalists, commenting in 2009



Joseph Frederick and classmates displaying banner (photo courtesy of Clay Good)

Commenting in 2009, Joseph Frederick, then teaching in China, said he's careful about what he puts online. "There's no real privacy on the Internet."

event that read, "Bong Hits 4 Jesus." His message was not protected speech since the Court ruled that school officials could censor speech that was "reasonably viewed as promoting illegal drug use." An interesting comment in that case came from Justice Clarence Thomas who argued that public school students should have no

free speech rights whatsoever. He stated, "In my view, the history of public education suggests that the First Amendment, as originally understood, does not protect student speech in public schools."

## THE LIMITS OF STUDENT SPEECH ARE STILL PENDING

You see from this history that you have First Amendment rights at school, but they are restricted—and often the cause of heated controversy. The Supreme Court has yet to decide the official limits of student Internet speech or the ramifications of cell phone use at school, text messaging, and other electronic forms of communication. But as you'll read in the cases that follow, it won't be long before these issues reach the highest court. The Supreme Court did state in 1997 that speech on the Internet is entitled to the highest level of protection. However, the Court in that case was not speaking about minors and the extent of protection remains undecided. As Avery Doninger (see chapter 5) wrote in a 2008 essay regarding her case, "Eventually, the scales of justice will determine whether students have speech rights off campus in the age of the Internet and whether there is a difference between 'shouldn't have said' and 'didn't have the right to say.'"

**"OFF-CAMPUS SPEECH CAN  
BECOME ON-CAMPUS SPEECH  
WITH THE CLICK OF A MOUSE."**

—*Doninger v. Niehoff*,  
U.S. District Court (2009)

The First Amendment is alive and well in the United States, thanks to responsible schools and educators, and the pioneering students and parents willing to take a stand on these developing issues. Keep the *Tinker*, *Fraser*, *Hazelwood*, and *Frederick* cases in mind and what the court said in each as you read further.

**“FREE SPEECH NOT ONLY LIVES,  
IT ROCKS!”**

—Oprah Winfrey

## Ethics in an e-World

Along with legal issues involving free speech on the Internet come ethical questions to think about. Consider the following scenario as an example.

Imagine it’s Friday night and you’re at a party at a friend’s house. Everyone there is 15 or 16 and your friend’s parents are keeping a low profile. Someone sneaks in alcohol. You take a few pictures of people drinking and post them on your MySpace page the next day. Your school principal sees the pictures and disciplines the students identified in them for underage drinking. Some are suspended for a few days, while others are restricted from participating in their extracurricular activities.

What is your ethical responsibility, if any, in this situation? As one of the kids at the party, did you respect your friends’ privacy by sharing the photos with the world? Did you think that only your immediate circle of friends would view the photos? Sometimes well-intentioned acts result in significant unintended harms.

Anyone with an Internet connection can be a reporter, critic, commentator, or media producer. It is no longer just you and a few friends or family members. Uploading videos to YouTube, instant messaging, or writing blog entries enables you to be a socially responsible participant in cyberspace. The potential for irresponsible choices exists, too, such as violating the rights of others, or in the extreme, becoming a cyberbully.

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**Whether you’re blogging, emailing, or playing an online game, your audience in cyberspace is vast and unknowable.**

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What does it mean to be a good citizen in our e-world? Do you have any responsibility when communicating via digital media? Are you concerned about how you portray yourself to others? What about protecting your privacy and respecting the privacy of others? Have you thought about the implications of cyberbullying, or downloading sexually suggestive photos, or faking your personal profile to fool others? Think about these ethical issues while reading the cases in this book. If these teens had considered questions of cyberethics, might they have acted differently?

## State, Federal, and European Laws on Cyberbullying

The cyberbullying epidemic has the attention of state legislatures, the federal government, and countries across the globe. Cities and towns are also addressing the problem by passing laws about electronic harassment. Following are some of the existing federal and state laws dealing with this public health issue.

Many of the laws require public schools to develop policies prohibiting cyberbullying and cyberharassment. Some of the laws authorize discipline ranging from suspension to expulsion, and a few also address off-campus activities that affect the school environment. Other laws require reporting incidents of bullying to law enforcement officials. Expect to see more cities, states, and countries getting onboard with their own laws in the near future.

There are several ways you can locate and read the specific laws for yourself. Since laws can be modified or repealed, check the currency of the law if you plan to cite it in research.

- Google the name of the law or act. Include the name of the state if it's a state law.
- Google the number of the law with the name of the state. (See the list of state laws on pages 18–21. Numbers are included in brackets following each law.)
- Ask a parent or librarian for help.