

Good afternoon. I am Jan Guarino-Rhone. I am a high school principal and a member of the CAS HS Board of Control. I have been in high school education for 20 years and am proud to have held the position of teacher of English, asst principal and principal. I'm here to talk to you about S.B. No. 1056, in particular about the nature and intent of the bill and to share some perceptions about its possible impact.

I am concerned about the limitations imposed on public school administrators and officials when language prohibiting action in the case of students who misuse freedom of speech is legislated. This bill signed into law would limit a school administrator's ability to teach students about this very important right and the limitations to it through every means available to them. Even when we take punitive action against a student, there is a lesson to be taught and learned. In some cases, our schools are the last place students can make mistakes, learn from them, be held responsible and have those mistakes wiped from their record. I am particularly worried about the effect S.B. No.1056 will have on the climate and culture of our schools. It may create an atmosphere where many administrators and classroom teachers will limit even more strictly opportunities for students to express themselves because they are afraid that a figurative or literal "open mic" could lead to an open attack on them or students. They simply won't put themselves or others into a potential situation and may, ultimately, limit the experiences.

Finally, I am extremely concerned about the potential of this bill to open the door to cyber-bullying, an anonymous crime that is rapidly increasing in frequency; bullying which our legislature has written laws to defend us against, is down considerably, but Cyber bullying is up as much as 46% (Cyberbullying.org), and it knows no borders. Because of the anonymity, social status is not a factor in cyber bullying as it has been in other types of bullying – ex-friends have been known to expose each others secretes, athletes on the same team have discredited the successes of their teammates, students have offered criticism about their teachers without regard to fairness or accuracy and the student described as "nerdy" or different has lashed out at a more popular student. Even if the acts aren't instances of direct harassment and bullying, or aren't lewd, vulgar or indecent in any way, they can be very damaging to the victims no matter their age and status. We need to be able to protect our students and faculty from any form of abuse.

A study by the Pew Internet & American Life Project reveals that:

*...teenagers' use of the Internet plays a major role in their relationships with their friends, their families, and their schools. Teens and their parents generally think use of the Internet enhances the social life and academic work of children. However, the Internet has a pivotal role in the lives of American teenagers, and there are aspects of the Internet that cause strain and make children and their parents worry that these technologies are not an unqualified good in teens' lives. (Pew Internet and American Life Project.com, March 5, 2009).*

In fact, the Internet, text messaging, instant messaging, blogging is so much a part of the lives of the teenagers I work with, that I find they are most comfortable in that environment and they "trust" the electronic environment to a certain degree. That gives them a false sense that they can say whatever they want and nobody will really get hurt. It also makes them vulnerable to be misrepresented or

mischaracterized. Reality is a bit blurry on the Internet. Unfortunately, though attempts have been made to create a Bill of Rights or a responsible code of conduct for the Internet, we know that it is largely unmanageable at this time. That means schools and the court systems have to deal with the fall out of defamatory or derogatory remarks made there; AND THEY DO SPILL OVER INTO OUR SCHOOLS . I'd like to share an example of this type of misuse of freedom of speech, one that illustrates the interrelatedness between what happens when students say something inappropriate outside of school and the fallout takes place in school. Very often, as in this case, the use of cell phones with cameras and audio-taping devices complicate the matter. Our example involved a posting on U-Tube showing a teacher instructing students in her classroom. The students spliced pictures, recorded and over-dubbed some audio, created captions and chose music to create a particular image of the teacher – the effect was pretty destructive. The teacher was hurt and upset, worried about her reputation and her career and had very little idea about who could have done this to her. When we found out who posted this, we worked with the students to rectify the situation. It became obvious that, to them, malice was not the intent. They were students who made a poor decision because they couldn't, in the moment, think of another way to express their frustration about an issue. The students agreed to take the item down as soon as we asked them to, and they apologized for their actions because they came to understand that they were hurting someone they had to work with every day, someone with whom they had a relationship and a mutual need for appropriate communication. After we discussed better ways to express their frustration and affect change, we realized they were truly remorseful. However, during the short period of time this item was placed on the Internet, there were over 2800 hits on the site. I can fairly accurately estimate that many of those hits came from students in our school and district. We, at the school, found out about the existence of this posting through teachers who informed us that students were discussing it in class, had downloaded it onto their phones and were even trying to access it on our school computers. The interconnectedness came full circle. While a student may post a damaging, defaming or hurtful statement about a peer or teacher outside of the schoolhouse, she may collect the fodder for it within the school, and then the reaction of the students and faculty brings it back into the school again.

Did this incident cause material and substantial disruption to the educational process? Is this an invasion of students' rights to learn in a safe and orderly environment? Was the chatter and distraction enough to make this so? Is it an invasion of the teacher's privacy? Should she expect privacy from the rest of the world when she believes she is teaching to twenty students with whom she has a pre-existing relationship? It isn't necessarily just a threat of violence that can cause significant damage to school climate, relationships or students' or adults' emotional well-being. A teacher is an easy target with no means of recourse because she is bound by her position and code of conduct. Nice students make poor decisions some times. Young people do that. If the students in this example hadn't been so accommodating and if this bill had been a law at the time, the teacher's only recourse would have been litigation.

If administrators and teachers can work through situations like this and walk through each possible outcome in a due process hearing with students and families and with an entire repertoire of action at our disposal – everything from asking to have it removed and offering an apology -- all the way to the other end of the spectrum of suspending or involving police – with many stops along the way, -- we can

bring about education and responsible behaviors we can continue to respond, teach and hold students responsible so they can learn and grow. What would have happened to the teacher in my example and her relationship not only with those students but all her students if we had no legal, appropriate action to take. A law that limits our ability to respond, will mean administrators might find themselves limiting access even more strictly to the Internet, cell phones, handheld devices at a time when these tools of technology are everywhere in the world and to limit access and the ability to teach about responsibility when using them wouldn't really be preparing our students for the work and learning they will do outside our schools.

To limit the school district administrators' ability to respond to such incidents in an appropriate way, which I believe SB No 1056 will do, is inconsistent with the way we treat abuses of freedom of speech in society and is sending an inconsistent message to our young people.

This completes my testimony. Thank you very much.

Jan Guarino-Rhone