

FEATURE

America's students are cyberbullying their teachers

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An educator with 16 years under her belt, Amy (whose last name is being withheld at her request) was well aware that students have a tendency to gossip and complain about their teachers.

"I fully expect students to criticize and be rude and ridiculous on occasion," Amy told *Vocativ*. "They're teenagers

social media, where they can be seen by the entire world rather than the limited circle of friends or whoever happened to see an angry comment scribbled on the school bathroom wall — a student's usual audience before the internet was invented.

A few years ago, Amy became the victim of what is typically considered a student-on-student issue: cyberbullying. She discovered that while cyberbullied students often have a hard time getting help, in some ways, teachers have it even worse.

In 2013, Amy, then a politics and government teacher at Warren High School in Downey, California, found a Twitter account under her name. Among other things, it made sexually suggestive comments about students who interacted with the account. Amy asked a police officer and school administrators for help, but she said it was her own questioning of students who interacted with the account that prompted one to confess to being behind it. The student received a two-day suspension, which was later cut down to one day.

But that didn't end the problem, Amy said. One male student tweeted an image of a gun and vulgar, gender-specific insults directed at her. She

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to tweet anything about her from public accounts, but that was a rule she could not enforce — and students apparently knew it. The tweets continued. In one case, Amy says, a student who was about to graduate was given a short suspension after tweeting a graphic comment about a sexual practice she purportedly enjoyed.

"There was fear, there was anxiety, there was sadness," Amy said of the continued harassment. "I realized that for 16 years I had truly enjoyed heading in to work each day — I had an amazing rapport with my students — and I felt like that was what had been stripped away ... And I was hurt and saddened that despite my best efforts, there was nothing I could do about it."

From the beginning of her ordeal, Amy said she requested that the school implement a policy against cyberbullying teachers, similar to its one forbidding the cyberbullying of students (as required by California law). Warren High's 2015-16 handbook prohibits sexual harassment and threats to students and school employees that could indirectly cover what happened to Amy, but it does not specifically mention harassment and threats made over the internet. And it only covers behavior that occurs on school grounds or during a school activity.

students about cyberbullying and the difference between public and private speech. But she said that while the school did meet those requests, the presentations only focused on student-to-student bullying — not teachers.

Ultimately, Amy decided that her work environment had become too hostile and asked for a year-long leave of absence. She hoped that a suitable policy would be put in place when she returned. "Without mutual respect in a classroom, there is nothing holding it together that is truly worth anything," Amy said. "Maybe there are teachers who are comfortable working in such an environment. I'm not one of them."

But applying workplace sexual harassment and discrimination laws or cyberbullying policies to students who attack teachers isn't so simple — which is why few schools have been willing to do it, experts say.

"The vast majority of school policies focus on student-to-student bullying alone," says Justin Patchin, a professor of criminal justice at the University of Wisconsin-Eau Claire and the co-director of the Cyberbullying Research Center. That's because nearly every state in the country has a law requiring schools to have anti-bullying policies now, many of which specifically

and legal blogger who often examines free speech rights. Teachers are expected to suck it up, but that doesn't mean they're always able to do so. Patchin has noticed an increase in teachers contacting the Cyberbullying Research Center about being bullied by students, but said there still isn't much data on how prevalent the problem is. One 2011 survey from the United Kingdom found that about a third of teachers said they had been bullied by students and even parents.

"Frankly, I feel like schools have bullying policies because they're required to," Patchin said. "Unless [the law] specifically says you have to have policies addressing staff, they're not going to do it."

That's not necessarily because the schools don't care about harassment of employees. Public schools must follow federal, state, and local laws (private schools usually have more leeway), and the law on students' and teachers' online speech rights is murky. So far, lawsuits concerning students' digital speech about teachers have generally come down in favor of the students, based on a Supreme Court decision made decades before the internet was widely used. *Tinker vs. Des Moines*, decided in 1969, held that students were protected by the First Amendment in public schools as

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substantially disrupt the work and discipline of the school."

Two cases decided by the Third Circuit Court of Appeals in 2011 found that the constitutional rights of students who were suspended from school over MySpace pages parodying their principals were violated, because the pages were created off-campus and did not disrupt the school. One judge even wrote that one of the principal's responses to the MySpace page created a bigger disruption to the school than the profile itself.

But a third case, decided in 2002, held that a middle school student who created a website making fun of his principal and some of his teachers — which included solicitations for money to hire a hitman to kill one of them — did not have his free speech rights violated when he was expelled. In this case, the Supreme Court of Pennsylvania ruled that the student was engaged in on-campus activity because he used a school computer to show a friend the site he made. The court also found that the student significantly disrupted school activity: One of the teachers took an immediate leave of absence from the school and never returned.

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"Most courts look at things on a very case-by-case basis," Lee said. And that's about all they can do until there's more case law to guide them. But the U.S. Supreme Court refused to hear both cases from 2011 that could have helped establish parameters about free speech and cyberbullying. "The law, quite frankly, is not prepared in a lot of ways," Lee said.

One of the few guides schools and courts do have — determining whether or not a student's speech disrupts the learning environment — is an easier thing to determine when the student is a victim. When it's a teacher being bullied, their work environment may be disrupted, but that doesn't necessarily mean the learning environment is. And schools may be reluctant to discipline a student for cyberbullying a teacher and risk a lawsuit that there's a good chance they will lose. "I do believe my school was not responsive to my concerns because they were afraid of being sued by students," Amy said. "They were not afraid of being sued by me."

circumstance under which schools can be held accountable for not addressing harassment directed towards teachers."

The American Civil Liberties Union, which often represents students in cases where they have been disciplined for speech, does not agree.

"I think in many cases existing law is sufficient," said Mike Meno of the North Carolina branch of the ACLU. North Carolina was the first state to pass a law prohibiting students from cyberbullying their teachers: 2012's School Violence Protection Law, which expanded on a 2009 cyberbullying law that focused on minors as victims. This law made it a misdemeanor for students to engage in any internet behavior, on campus or off, that could be interpreted as intended to harass a school employee.

The ACLU protested this law, saying it essentially made it a criminal act for students to criticize their teachers and schools — who are, by virtue of working for the government, public officials and institutions with even fewer protections than private citizens — even if those criticisms were truthful. The ACLU also held that the terms the law used to define criminal cyberbullying ("torment" and "intimidate") were too vague. In June 2016, the state Supreme Court ruled that the student-as-victim

been challenged in court, but it's exceedingly likely that it will suffer the same fate, because it contains the same broad language.

Amy said she is a big supporter of the ACLU and the First Amendment, which she used to dedicate several weeks to teaching. "I'm very passionate about the Constitution and about my rights within that Constitution," she said, adding that she also values her students' free speech rights. But she does not think that all speech should be protected, especially when it creates a hostile work environment for the adults who are tasked with disciplining immature children and teenagers who lash out without considering or caring about the consequences of their actions.

"Our personal lives and reputations are open to be besmirched worldwide by the young people that we are tasked with teaching," Amy said. "How can we teach them about taking responsibility for their actions if our hands are tied and we are afraid to perform basic discipline?"

Barring student speech that is a "true threat" and not protected by free speech laws — though what constitutes a threat can vary from court to court — this leaves teachers with little legal remedy other than to sue their own students if

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best, win money from the student's parents — if they can get the parents added to the suit in the first place. If anything, they would most likely win a symbolic victory that costs them much more than they'll ever get back.

"Principle is expensive," Lee said.

Teachers can also try to sue the school district for allowing or failing to prevent a hostile work environment. But the law here, too, isn't clear. If an employee harasses another one, that's easy enough. But Amy claimed she was harassed by her students, and they don't work for anyone. Lee said that if the school punished students, it might be hard to prove the district did anything wrong, or that it could have done more. Beyond that, suing an employer can make for a hostile work environment, which could then make it difficult to find employment elsewhere.

"A whole host of professional repercussions can ensue," Amy said. "I had no desire to sue. I wanted myself and my colleagues to be protected."

Even so, after her leave of absence ended and Warren High's policies didn't change, she took another year of leave and filed a lawsuit against the school district for failing to prevent or act on sexual harassment and a hostile work

settled out of court — Amy wouldn't say when or for how much.

After everything that happened — and the knowledge that it could very well happen again — Amy decided to stop teaching. She also left the state. "I have now had an opportunity to make a new life for myself," she said. "And although I truly miss the intrinsic satisfaction that used to come with the teaching profession, I am better for not having to immerse myself now in a situation where I would be left unprotected from harassment and exposed to cyberbullying and online attacks on an ongoing basis."

She also doubts that she'd be able to get a teaching job if she ever changed her mind. Though she has a teaching degree from Columbia University and says she was voted "Most Inspirational Teacher" by her students (indeed, she earned some glowing reviews on Rate My Teachers — a site that has also been seen as an outlet for cyberbullying teachers), she doesn't think any of that will matter to prospective employers.

"If I were to look for a teaching job right now, how many school districts do you think would be rushing to hire me?" Amy said. "When a quick Google search of my name brings up ... *this*?"

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