

Shariff, Shaheen. Confronting Cyber-Bullying

Many of the issues raised by Shariff, a professor in the Faculty of Education at McGill University, deal with insightful analyses of the different reactions of young people and adult to technology, ways schools can foster positive environments, and so on. Two Chapters are of specific interest to a Union and its Members.

1. **Cyber-space Libel / Criminal Harassment**

Courts in many countries have been loathe to accept cases involving cyber libel or bullying. Part of the reason is that law generally relies on precedent and there is virtually none (bad pun) for this issue. Courts find themselves relying on one hundred year old tort law to resolve digital age cases.

When teachers are maligned on Facebook, MySpace or some other digital forum, it often causes stress, nervous breakdowns, weight loss, etc., because of the perceived loss of reputation. Unions, consequently, feel pressure to “do something” to protect their members.

But what can be done. To date in Canada, there has been no successful prosecution of a student for libeling a teacher. There is one case, Newman et al. (2006) where an adult was convicted civilly of libel and ordered to pay over \$600,000 in actual and punitive damages to the teachers.

There are three considerations (at least) in this:

- a) Can students be held responsible for tort law by engaging in cyber libel?
- b) Can teachers/schools be held responsible for not protecting student victims?
- c) Are schools negligent if they do not protect teachers?

2. **Student Free Expression**

The Charter of Rights, Section 2, clearly protects the rights of individuals to express opinions; however, Section 1 calls for a balance of individual and collective rights.

In other words, what can a student say with impunity on Facebook, MySpace, a blog, Twitter, etc., about a teacher? A specific case might be instructive or scary.

Bram Koch, a student at Willowbrook Public School (grade 8 student), reported on a friend’s Facebook saying he saw his teacher (female) masturbating at the back of the classroom. When this was reported to the Principal, Bram was suspended from participating in the class trip to Montreal. However, he was allowed back in the teacher’s class for the remainder of the year.

The boy and his father subsequently appeared on the CBC radio show, Currents, to explain that they felt the school overstepped its bounds: “They came in to my house and told my son what he could do.” Brad showed no remorse about his comments; he felt he had the right to say whatever he wanted in his ‘private’ conversations with his friends.

The defence was that he was ‘joking’; the impact on the teacher was anything but. Apparently, no further action was taken by the school, Board or Union.

There is obviously a disconnect between how students and adults (teachers) view this kind of discourse.

Until such time as there is a definitive civil or criminal decision in favour of the teacher, Unions can expect continued ambiguity in the handling of this sort of behaviour.