

US court weighs school discipline for Web posts

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(AP) -- A U.S. appeals court heard arguments Thursday over whether school officials can discipline students for making lewd, harassing or juvenile Internet postings from off-campus computers.

Two students from two different Pennsylvania school districts are fighting suspensions they received for posting derisive profiles of their principals on [MySpace](#) from home computers. The American Civil Liberties Union argued that school officials infringe on student's [free speech rights](#) when they reach beyond school grounds in such cases to impose discipline.

"While children are in school, they are under the custody and tutelage of the school," ACLU lawyer Witold Walczak argued Thursday in the 3rd U.S. Circuit Court of Appeals. "Once they leave the schoolhouse gate, you've got parents that come into play."

But a lawyer for the Hermitage School District in western Pennsylvania offered a different view.

"It's not a matter of where you throw the grenade, it's where the grenade lands," Anthony Sanchez said.

The appeals court agreed to rehear the two cases in a rare en banc session - with all 14 eligible judges on the bench - after its judges issued conflicting rulings in the two cases in February. One three-judge panel upheld a girl's suspension, while another found the suspension of a boy

unconstitutional.

Such disparities are common around the country as school districts wrestle with how to address online behavior that can range from pranks to threats to cyberbullying.

Some school officials mete out discipline, opening themselves to lawsuits, or refer cases to police. Occasionally, a targeted school employee sues the suspected culprit for defamation.

David L. Hudson Jr., a scholar at the First Amendment Center in Nashville, Tenn., has reviewed many such cases across the country and said the extent of school officials' jurisdiction remains unsettled.

Legal experts hope the Supreme Court will soon clarify the limits of school discipline for online speech that is posted offsite. Hudson told The Associated Press many school officials "would welcome further elucidation by the courts."

The two school districts argued Thursday that the postings can be disruptive at school, and said they need to be able to maintain order.

"The profile did create an immediate disruption which required immediate action," argued lawyer Jonathan Riba, who represents the Blue Mountain School District in eastern Pennsylvania.

A 14-year-old Blue Mountain student who had been cited for a dress-code violation created a fake profile of a principal purportedly from Alabama. She used her principal's photograph and described him as a pedophile and mentioned a sex act. The girl later apologized, took down the page and was suspended for 10 days.

"For a school administrator, one cannot be called a worse thing than a

sexual predator of young children," Riba argued.

But Walczak said no one, including the principal, took the profile seriously, and that the parody is protected under the First Amendment. He suggested other remedies for such behavior, from talking with the student and parents to calling police or counselors.

The student's mother has said punishing the girl should have been left up to her.

In the other case, Hickory High School senior Justin Layshock created a parody that said his principal smoked marijuana and kept beer behind his desk. The Hermitage School District said it substantially disrupted school operations. Layshock was suspended and the principal sued him.

On Thursday, the judges threw a barrage of hypotheticals at the lawyers, asking if it mattered if the student intended to harm the target or if the offending site was accessed at [school](#).

Chief Judge Theodore A. McKee suggested yet another response to the "buzz" among students about outrageous postings.

"Teachers might say this is a teachable moment," McKee said. "Maybe in retrospect, that's the best way to deal with it, to get the students talking about the hurtfulness of the conduct."

The court did not indicate when it would rule.

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