

# Legal settlement is reached over student's Facebook comments about teacher

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A former Florida high school student scored what her attorneys call a victory for the First Amendment last week with the end of her two-year legal battle over her Facebook comments about a teacher.

Katherine "Katie" Evans' three-day suspension from Pembroke Pines Charter High School for the comments will be wiped from her school record as part of a settlement agreement reached in her federal lawsuit against her high school principal. In addition, she will receive \$15,000 in legal fees and \$1 in nominal damages, her attorneys said.

Evans was suspended in November 2007 after her principal, Peter Bayer, learned she had created a [Facebook](#) group describing her Advanced Placement English teacher as "the worst teacher I've ever met." Bayer deemed the honor student's actions as "cyberbullying/harassment (of) a staff member" and placed her in a less rigorous English class, according to Evans' federal lawsuit.

With the legal support of the American Civil Liberties Union of Florida, Evans sued Bayer in late 2008, arguing her First Amendment right to free speech had been violated with the school's sanctions. The lawsuit became one of a growing number of cases across the nation raising questions of where a school's authority begins and ends when it comes to students' speech on the Internet.

In a pretrial ruling, U.S. Magistrate Judge Barry Garber determined in February that Evans' speech was constitutionally protected, finding it

was off-campus speech that did not cause any disruptions at school and was not lewd, vulgar, threatening or advocating illegal or dangerous behavior.

Evans, now a 20-year-old [University of Florida](#) student, had been ready to go to trial until the settlement was reached, said Matthew Bavaro, one of her attorneys.

"I think Katie is very happy her First Amendment rights were vindicated and the school did the right thing," Bavaro said. He observed that she had never sought money other than the nominal damages she received.

In addition to expunging the suspension from her record, the school must destroy any documents related to it, Bavaro said.

Bayer's attorney did not return a phone call and e-mail on Monday. Pembroke Pines City Manager Charlie Dodge, whose city oversees the school, also did not return a phone call.

Evans had the Facebook group up for just two days, taking it down after three of her peers criticized her and came to the teacher's defense.

David L. Hudson Jr., a scholar at the First Amendment Center in Nashville, Tenn., said that with the rising popularity of social media sites such as Facebook, there's been a corresponding increase in cases like the one involving Evans.

Garber's ruling in the case has some value as far as setting precedent, he said. However, much of the education law community is now awaiting how the 3rd U.S. Circuit Court of Appeals in Philadelphia rules on a pair of student speech cases out of Pennsylvania, he said.

In those cases, high school students in separate districts were suspended

for creating MySpace profiles of their principals from their home computers.

Erika Anderson, a San Diego-based attorney who works with school districts, said she anticipates that however the federal appellate court rules, it will be challenged up to the U.S. Supreme Court.

"The incidents of students who are doing this are on the rise and school districts are at a loss to respond," Anderson said. "We are walking on eggshells with it because we don't want to infringe on anyone's rights."

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