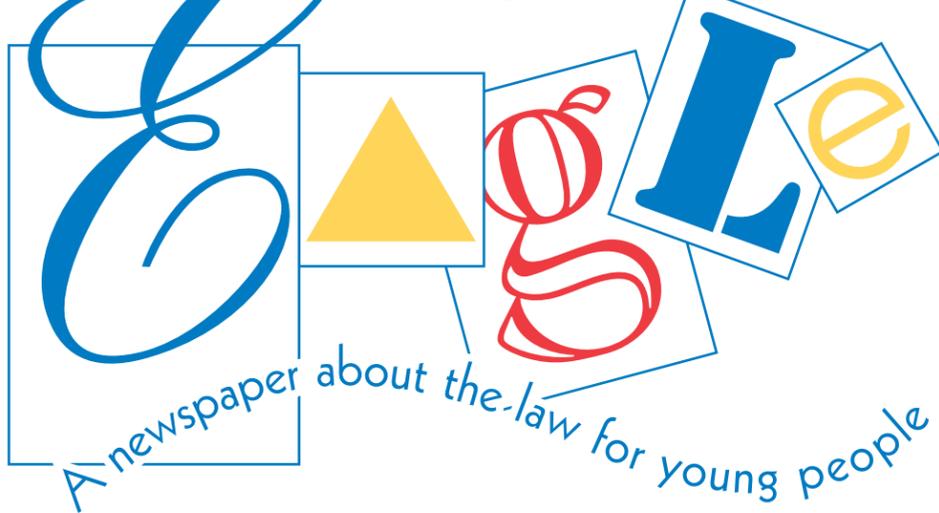


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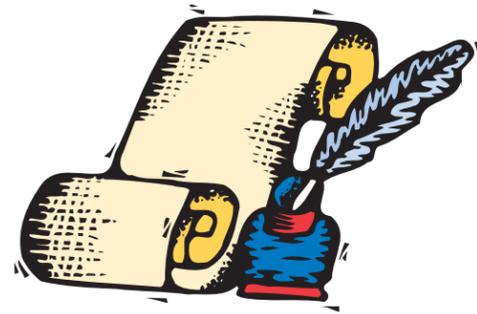


WINTER 2005

Battling for the Bill of Rights

by Cheryl Baisden

In 1789, when President George Washington ordered a signed copy of the proposed Bill of Rights delivered to each of the original 13 states, he probably had no idea how much trouble one of those copies would cause more than 200 years later. Today, North Carolina's copy of the



document, which contains the 12 amendments that were originally proposed to the U.S. Constitution, is at the center of a \$15 million lawsuit.

The lawsuit involves ownership rights and the document's mysterious journey from the North Carolina Capitol into the hands of two Connecticut men who bought it from two women for \$200,000.

Businessman Robert Matthews and antiques dealer Wayne Pratt bought the document in 2000 and later offered to sell it for \$5 million to an FBI agent pretending to be a buyer for a museum. The government seized the historic document, which is estimated to be worth \$30 million.

Since he was the one who arranged the purchase and sale of the document, Pratt was threatened with possible criminal charges for dealing in stolen property. As a result, he agreed to give up any claim to the document. Matthews refused, however, and filed a lawsuit seeking half the document's value.

Who's the owner?

A federal judge in North Carolina ruled in January 2004 that the document belongs to the state, but Matthews is **appealing** the decision. For now, the 216-year-old document remains hidden away by U.S. Marshalls in a secret location in North Carolina until the lawsuit is settled.

According to Richard T. Laughlin, a copyright attorney in Morristown, the outcome of the legal battle depends on who the court believes is the *true* owner of the document.

"If you do not rightfully own the document then you have no right to be compensated for giving it up," Laughlin said.

CONTINUED ON PAGE 2

All-Volunteer Army or Military Draft: Does Uncle Sam Want You?

by Phyllis Raybin Emert

Thousands of U.S. soldiers are stationed right now in Korea, Afghanistan, the Balkans, Okinawa, and other spots around the world. With our military presence in these areas and the war in Iraq, some military experts claim the U.S. is spreading its forces too thin and more soldiers will be needed in the war on terror. Presently, there are 1.4 million active duty members of America's armed forces—all of them volunteers.

A bill, which was approved by the U.S. House of Representatives, will add 39,000 troops to the U.S. Army and Marines over the next three years. The U.S. Senate approved a bill to increase the Army by 20,000 soldiers this year.

The New York Times reports that the Army National Guard fell short of its 2004 recruiting goal. Recruiting in other branches of the armed forces is similarly low. So, how will these additional troops be realized?

In October 2004, a House of Representatives bill to re-instate the military draft was defeated 402 to 2. A similar bill, which would require all men and, for the first

time, women between the ages of 18 and 26 to enter military or civilian service for two years, is still pending in the Senate.

History of the draft

The Civil War was the first American war where soldiers were drafted. This practice was also called **conscription**. During the Civil War, the South drafted white males, aged 17 to 50, making up about 20 percent of all Confederate soldiers. Males 20 to 45 were drafted in the North, accounting for less than 10 percent of the total number of Union troops.

Military service in the Civil War could be avoided by paying \$300 to the government for exemption from a particular battle or by hiring a substitute that would take your place for the entire war. During World War I, the Selective Service Act of 1917 did away with government fees and substitutes to avoid the military. Instead, the Act authorized **deferments** or exemptions for those men who were in needed jobs or were the sole support of their families if serving caused a financial

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Cyberspace Gives Bullies New Weapon But False Sense of Secrecy

by Barbara Sheehan

Up until recent years, bullies in the schools were fairly recognizable. Whatever their aggressive acts — from pushing other kids in the hallway to teasing classmates in the lunchroom — they were usually out in the open for people to see.

But lately, some students have signed on to a new kind of bullying that puts the aggressor out of sight and behind a computer or telephone keypad.

This high-tech means of bullying, called cyber-bullying, could include anything from sending harassing text messages

or emails to creating entire websites aimed at humiliating or harming another individual or group of individuals.

The new bathroom wall

In today's world, information is available with a few keystrokes or the click of a mouse. But, living in the information age has negative aspects as well.

"I call the Internet the new bathroom wall," Rachel Simmons said

in an interview with *The Star-Ledger*. "It used to be that if someone wrote something in the bathroom or passed a note, a limited number of people would see it," said Simmons, who is the

author of *Odd Girl Out: The Hidden Aggression in Girls* and lectures frequently on the topic of bullying.

"Now, the Internet has the capability to take the bathroom wall and put it in an infinite number of bedrooms. You don't have to be in the stall."



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Bill of Rights CONTINUED FROM PAGE 1

If the court determines that the document really is the property of the state, Matthews would have to go back to the women he purchased it from and request a refund from them, he explained. Trying to get that money back, however, could lead to another legal battle.

"Generally speaking all of the copies would belong to the federal government, since it was an official record of the work of the Congress," said Laughlin. "It is reasonable to conclude there is federal ownership because of the historic importance of the documents. You could say that the copies were only on loan [to the states]."

How did North Carolina lose it?

In the case of the North Carolina document, figuring out who is the rightful owner may not be so easy. The historic document, on which the 10 amendments that make up the Bill of Rights is based, was displayed in the North Carolina Capitol in Raleigh in the 1800s, and disappeared when the city was occupied by Union troops during the Civil War. But the exact circumstances surrounding its disappearance remain unclear.

The North Carolina government says a Union soldier stole the document during the war when Northern troops took over the Capitol building and briefly lived in it. When the soldier returned home to Tippecanoe, Ohio, according to the government, he carried the document with him by horseback.

Michael Stratton, the attorney for Matthews, tells a different story. In an Associated



Press report following a January 2004 court appearance, Stratton said the document was discarded because it was a symbol of the government the South was fighting against in the war, and the soldier actually rescued it from destruction, thereby becoming its rightful owner.

It will be up to a federal appeals court to decide which story makes the most sense.

In a similar case involving an original copy of the Declaration of Independence, the state of Maine regained possession of that historic document in 2001 when evidence was discovered that showed it had been taken from the state archives years earlier. Until that time the buyers and the auction house that sold it claimed it had been thrown away by the state at some point.

No matter what happens in the Bill of Rights case, according to Laughlin, Matthews will probably not be threatened with criminal charges.

"In a case like this you would have to intend to commit a crime," Laughlin said. "If there is no **intent**, no crime has been committed."

Once the North Carolina case is settled it may not be the last time ownership disputes over early versions of the Bill of Rights hit the courts. Although New Jersey's copy rests safely in Trenton, the original copies from Georgia, Maryland, New York and Pennsylvania are all currently missing.

Putting More Bite Into Animal Protection Laws

by Cheryl Baisden

Although many people regard their pets as members of the family, as important as any other member, the law does not see it that way. If someone kills your cat or dog, whether by accident or purposely, the most you will receive for your loss is enough money to replace your pet.

"It's crazy, but that's the way the law is in New Jersey and most other states," said Isabelle Strauss, a Toms River attorney who has handled many animal-related cases.

The belief, she says, is that a pet is nothing more than property, like a table or chair and the value of your pet is determined only by what you paid for it. In some states, this distinction is being challenged by lawsuits and new laws designed to define pets as more than just property.

Tennessee's T-Bo bill

Tennessee became the first state to adopt a law that allows pet owners to sue for more than just the replacement value of a pet and the cost of veterinary bills. Under the law, adopted in 2000, a person losing a pet because of intentional or **negligent** actions can receive up to \$4,000 for loss of companionship.

T-Bo was a 12-year-old dog who was fatally attacked by a larger dog whose owner let him run free. The Tennessee law, named after T-Bo, recognizes that pets are living things, not property, according to Strauss, but she believes it still puts too low a value on a pet.

"To win a case under the law, you have to hire a lawyer and experts to testify in court," said Strauss. "All of that adds up, and if you can only win a small amount of money it may not be worth it financially. Actually, it could end up costing you money, even if you win," she said. "But having a law in place that lets people sue for loss of companionship is a step in the right direction."

Because Tennessee has the T-Bo law, owners whose pets have been intentionally killed, or died because of someone's negligence, are now hoping to strengthen the law by increasing the amount of money they can obtain for loss of companionship. That's what the owners of Gizmo, a 16-year-old Yorkshire terrier, are hoping to do with their lawsuit. In Tennessee, the dog's owners are suing three men who they say kicked Gizmo like a football, which killed the tiny dog. Although the T-Bo law says they can only receive \$4,000 in damages, they are suing for \$200,000.

"It's all about taking small steps," said Springfield lawyer Linda Sinuk, who also handles

animal-related cases. "If you can get a law in place, then you work to improve it by increasing **damages** and defining the law better."

Small steps in New Jersey

Some New Jersey lawmakers recently proposed a law that would allow pet owners to sue for up to \$20,000 for loss of companionship and seek various other expenses. But since it was first proposed, the Legislature has removed the loss of companionship portion from the bill, and has not scheduled a vote on the remaining proposal.

Although New Jersey presently doesn't have a law in place that lets pet owners sue for loss of companionship, Sinuk recently took a small step toward changing the state's legal view toward these cases. A New Jersey judge ruled that she can present a case in superior court dealing with the death of a dog and seek damages beyond the replacement cost of the animal, including but not limited to loss of companionship.

"The judge is allowing the case to be heard based on the belief that the dog's life was worth more than what was paid for it," said Sinuk. "We'll have to see what happens, but even just getting this far is one small step, and that's how you change the law."



hardship. Conscientious objectors, those who opposed war and killing on religious grounds, were allowed to serve in non-combat positions. Thousands of local draft boards were set up across the country and staffed by civilians. These boards, using a set of national guidelines, decided who received deferments.

The Vietnam War inspired mass protests and demonstrations against the draft and war in general. In 1969, draftees accounted for 88 percent of the Army infantry forces in Vietnam. Those in college received student deferments, making most of the soldiers fighting the war from non-college, working class families, especially African-Americans. Thousands of draftees who did not want to fight and were not eligible for deferment fled to Canada and other countries to avoid military service.

In 1972, draftees were no longer sent to Vietnam and on January 27, 1973, the draft was **repealed**. Draft registration was suspended after 1975 and then re-established by President Jimmy Carter in 1980. Today, there is **compulsory** draft registration for all 18-year old males, who must register at their local post office within 30 days of their 18th birthday. Failure to register for the draft is a **felony**, punishable by up to five years in prison and a \$250,000 fine.

Today's military draft

Senator Fritz Hollings (D-SC), who sponsored the Universal National Service Act of 2003 that is still pending in the Senate, declared that with his bill deferments for education would only be allowed through high school graduation. College deferments would no longer be possible, he said. Fleeing north would not be an option either since the U.S. signed the Smart Border Declaration with Canada in December 2001. This declaration, which among other things institutes a pre-clearance agreement for people crossing the border between the two countries, could be used to stop draftees from leaving the United States.

Hollings stated in a press release, "As we fight this war on terrorism and protect our way of life, we must once again listen to the words of President John F. Kennedy, who implored us to 'Ask not what your country can do for you; ask what you can do for your country.'"

The Senate legislation would authorize the president to decide the number of men and women selected for military service and the way they would be chosen. Currently, the Senate Committee on Armed Services is reviewing Hollings' bill.

Most Americans not in favor

A survey that polled draft-age Americans revealed that 52 percent of the respondents

would actively seek a deferment or refuse to serve and 43 percent would serve if called. The survey was released by the Vietnam Veterans of America Foundation, a humanitarian organization that addresses the consequences of war through advocacy and services for victims of conflict around the world.

A *New York Times*/CBS News poll taken over the summer showed that 70 percent of those surveyed were against re-instating the draft, and that position was shared across political party lines. *The New York Times* also reported that senior advisors for President Bush believe that conscription reduces morale, would be costly for the country and create inadequately trained soldiers.

In the minority is George O. Flynn, a retired Texas Tech University history professor who has written three books on the draft, including *Mr. Selective Service* and *The Mess in Washington: Manpower Mobilization in World War II*. Flynn told *The New York Times* that a military draft would create feelings of citizenship and spread military service across a broader section of society.

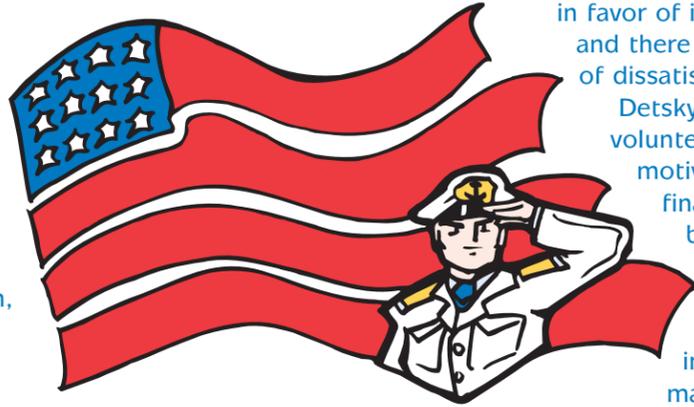
Creating resentment

Magdalena Padilla, president of the Insurance Council of New Jersey in Ewing, is a former ROTC student and commissioned officer in U.S. Army Military Intelligence. Padilla thinks the military draft would be both good and bad for the country.

"A draft would give young people a better appreciation of what it means to be in the military," said Padilla who currently chairs the Military and Veterans Affairs Committee of the New Jersey State Bar Association. "It offers the opportunity to meet and train with different people from different backgrounds united in a common effort," she said.

At the same time, Padilla noted that a draft would require people to be in the service who don't want to be there, fostering resentment. History shows that the relationship between conscripts or draftees and volunteer soldiers has been contentious. Since the Civil War, volunteer soldiers' position has been that unwilling soldiers make poor fighters.

"The draft isn't going to happen," Michael Detsky, a Freehold attorney and captain in the U.S. Naval Reserve declared. "The military isn't



in favor of it. It's inefficient and there are problems of dissatisfaction."

Detsky suggested that more volunteers could be motivated with greater financial and educational benefits. Indeed, legislation has been moved in both the House and Senate to increase military pay, making a career in

the military more attractive to potential volunteers.

Everyone should serve equally

Representative Charles Rangel (D-NY) sponsored the Universal National Service Act of 2003 in the House of Representatives, which even he voted against. Rangel told *The Los Angeles Times* that the intention of his legislation was to discourage the war in Iraq and to bring attention to the disproportionate number of minority and low-income soldiers who bear the burden of going to war. African-Americans, for example, make up 13 percent of the population, but 22 percent of today's soldiers.

"Fighting for our country must be fairly shared by all racial and economic groups," Rangel said in *Time* magazine, "because the wealthy have always managed to avoid service."

Sanford Rader, an attorney in Perth Amboy and a retired full colonel in the Air Force who enlisted and served during the Korean War, agrees. Radar says that if there is a draft, he favors one that is more fair than those of the past.

"Balance the scales so that all segments of society are represented," said Rader, "with universal service for all men and women."

It should be noted that not everyone drafted would serve in combat. Many would assume civilian service positions to strengthen homeland security such as guarding America's borders, nuclear power plants, and air and seaports.

Watching and waiting

Despite arguments made by both sides, the question of a military draft in the future will depend on world events. It is likely that the government (both Democrats and Republicans) will do their best to avoid an unpopular issue like the military draft as long as circumstances allow. One thing seems certain, if the draft is resumed in the future, it will be spread more equally among all members of society than those drafts of the past. 🗡️

New York City's Draft Riot of '63 — 1863

The 1960s was a turbulent time in our nation's history in terms of protests against the draft and the Vietnam War. It seems that the 1860s had its troubles as well during the Civil War.

President Abraham Lincoln issued the Enrollment Act of Conscription on March 3, 1863. Demonstrations against the Act took place in many Northern cities, however, the most violent and best known protest was New York City's draft riot of 1863.

A draft lottery was held on July 11, 1863 in New York City in which the names of more than 1,000 draftees, most of them Irish and working class, were drawn from a large barrel. Few could afford to pay the \$300 government fee to avoid service or hire a substitute to fight in his place. Those who had money answered an advertisement in the New York newspapers, which stated "gentlemen will be furnished promptly with substitutes by forwarding their orders to the Office of the Merchants, Bankers and General Volunteer Association."

Many people were angered by this policy and protested what they believed was an unfair draft forcing only poor and disadvantaged men to fight, while the rich and privileged avoided their military responsibility. On July 13, when the lottery resumed at the 3rd Avenue and 46th Street draft office, a mob of armed men burned it down.

At first the crowd blamed the draft on the wealthy Republicans. Then they turned their rage on the city's black population. A black church was burned down and a black orphanage that housed 237 black children under the age of 12 was destroyed.

Eventually 50,000 strong, the mob was mostly made up of immigrants who populated the city's slums and found themselves forced to compete with blacks for the lowest paying jobs and didn't want to fight a war on their behalf.

After three days of lynchings, beatings, burnings and battles that raged on the streets of New York, 6,000 federal troops were called in to maintain order. By July 16, the riot was over. When the smoke cleared, 119 people were dead and \$1.5 million worth of damage had been done.

Although it began as a protest against the draft, the bloody riot had its roots in class warfare and racism. The draft continued peacefully on August 19, 1863. Of the 67 rioters who were convicted of crimes, only a few received long prison terms.

Sources: *A History of New York City* by Edwin G. Burrows and Mike Wallace and *The Civil War Society's Encyclopedia of the Civil War*.

This immediacy is what troubles psychologists who maintain that the psychological impact on a child who is cyber-bullied is just as devastating as if the child was bullied in person. Researchers at the University of Queensland in Australia released a study in October 2004 that found cyber-bullied kids feel more helpless because the harassment has invaded their homes. In other words, there is no safe place for them to escape the bullying.

Rosalind Wiseman, author of *Queen Bees and Wannabes*, which was the basis for the 2004 film, *Mean Girls*, told *The New York Times* that online bullying is particularly appealing to girls because they typically avoid direct confrontation, preferring emotional harassment.

While the senders of these hurtful messages may enjoy a momentary sense of **anonymity**, their identity, according to law enforcement officials, and the serious consequences they may face, are no mystery.

Learning a lesson

Last year, at least one group of New Jersey middle school students found this out the hard way. That case involved six students at a Somerset County school who posted a website on the Internet that threatened fellow students with graphic, harassing messages and even death. The site was reportedly shut down by police and then reposted by the students.

As a direct result of the website and a reported bullying incident that was linked to the site, parents of the victims hired an attorney to represent them. The students responsible for the website were initially suspended from school for varying lengths of time.

The case eventually made it to the county prosecutor's office, which charged four of the perpetrating students with making terroristic threats and harassment, and two with harassment. The students charged completed the semester in an alternate setting and did not return to school for the remainder of the year, which was nearing an end.

According to Somerset County Prosecutor Wayne J. Forrest, three of the students later pled guilty to the charges. Of those three, two were placed on a probationary term, assigned community service, and were required to undergo psychiatric evaluation and write letters of apology to the victims.

The other student who pled guilty was given a court-adjourned disposition for 12

months, which essentially means if the student stays out of trouble for the required period of time, the court may dismiss the charges against him or her. The remaining three students, Forrest said, were referred to an intake services conference, which is an alternative form of prosecution in the juvenile system that addresses less severe criminal activity.

A serious matter

Unfortunately, the Somerset County incident is not unique, but Forrest hopes other students will be deterred by the seriousness with which law enforcement takes these types of situations. Investigations are thorough, he said, and law enforcement officers are committed to solving the cases and seeing that action against the perpetrators is ultimately taken.

"We try to solve all these cases and generally we do," Forrest says.

The prosecutor also notes that people seeking to use technology as a means of bullying will not be protected by what is really a false sense of anonymity. Law enforcement has many different ways to determine the identity of anyone who harasses or threatens another individual over the Internet, Forrest contends.

Bullying and the law

Alan Zegas, a Chatham attorney who represented the victims in the Somerset County case, echoes the prosecutor's sentiments that technology does not provide true anonymity.

"Every computer has its own footprint," says Zegas, who was hired by the victims' parents to prevent the offending students

from returning to school, ensuring a safe school environment for the victims.

He also shares the prosecutor's view on the seriousness of bullying cases like these. It is illegal, Zegas says, to threaten harm by way of a computer. And, the responsibility is not born solely by the person who hits the "send" button but by all involved participants.

The ramifications can be very serious, Zegas notes. Under exceptional circumstances, juvenile cases can potentially be transferred to adult courts. Even a student treated as a minor can

Beating the bullies

While there is no simple answer to stop bullying altogether, Nancy Mullin-Rindler, director of the Project on Teasing and Bullying at Wellesley College in Massachusetts, says that schools need to take responsibility when they are faced with a bullying issue and get the whole school community involved. For example, the school might send a letter home to all parents informing them of an incident and making a plea for more information.

Also, Mullin-Rindler says, schools need to ensure that there are definite consequences for students who bully, whether it be missing social events, eating lunch alone, or some other kind of ramification.

What may be surprising to some people, she says, is that bullies are rarely "victims" themselves, which is a common misconception. Rather, they are typically popular students and skilled socially. What bullies typically lack, Mullin-Rindler says, is **empathy** and the ability to see somebody else's point of view. This is where bystanders come in.

To truly deter bullying, Mullin-Rindler emphasizes the need to take the "onus" or responsibility off the victims, who she says are the most "powerless," and motivate the bystanders to stand up to the aggressors, letting them know that what they are doing is not okay.

Part of this, she says, involves creating a climate at the school where students feel connections with adults and are comfortable approaching them.

The superintendent at the Somerset County school where the website incident took place agrees that bystanders wield a lot of power. One of the thrusts of his school's bullying program, he

GLOSSARY

anonymity — the state of being anonymous or unknown.

appeal — a request that a higher court review the decision of a lower court.

clique — a select group of people.

compulsory — required by rule or by law.

conscription — historically, the practice of drafting men into military service.

damages — compensation, sometimes in the form of money, recovered through the court system.

deferment — in the case of being called to the Armed Services, a postponement of service or extension to a later time.

empathy — the capacity to feel emotions similar to those felt by another person.

felony — a serious criminal offense usually punished by imprisonment of more than one year.

intent — a state of mind or desire to bring about a certain result.

negligent — failure of a person or an entity, such as a company, to take reasonable care in a situation.

repealed — revoked. A law that is repealed has been withdrawn or cancelled and is no longer a law.

says, is giving these students the skills they need to intervene.

For example, the school has implemented a program where student leaders representative of all segments of the school population act out different scenarios and demonstrate possible ways to deal with bullies. Breaking down **clique** barriers is another component of countering bullying, the superintendent notes.

Cyberspace creates new challenge

Like many other school officials and administrators around the country and the world, this superintendent says his school district is trying to adjust as best as it can to the new means of bullying that technology presents.

When there is some kind of disagreement among students, even if it originates outside of school, he says the school has to ask, "Is that creating a hostile environment here?" If it is, he says, the school must react.

"Cyberspace has complicated things," the superintendent says. "It hasn't really changed the basic premise, which is that bullying and inappropriate comments are unacceptable." 🗡️

