

Cyberbully Gets First Amendment Protection

By: Jack Greiner on December 18, 2009 on graydon.law

Here's an interesting [article](#) from Slate discussing a recent decision from a U.S. District Court in California that ruled a middle school could not suspend a student for posting a video on YouTube in which several eighth graders verbally abused another student - calling her a "brat" and a "slut." The court found that the punishment would violate the suspended student's First Amendment rights, since the school apparently presented no "evidence that such speech caused a substantial disruption of the school's activities." First Amendment cases in schools present a unique question. While public school students have First Amendment rights, those rights give way if the speech causes a substantial disruption to the school's education mission. Thus, the U.S. Supreme Court in 2007 found that a school could suspend a student for displaying a banner reading "BONG HiTS 4 JESUS" from a spot across the street from the school during the 2002 Olympic Torch Relay. I'm not sure what will happen to the YouTube case on appeal. If in fact the school offered no evidence of disruption, it may not have much to say. And it seems likely that a cyberbullying incident could lead to enough disruption that a court would permit a school to punish the responsible parties. I have a feeling this won't be the last word.