

BATH COUNTY SCHOOL BOARD

AGENDA ITEM: INFORMATION { X } ACTION { } CLOSED MEETING { }

SUBJECT: ITEMS FOR BOARD MEMBERS



VSBA Hot Topic Conference

April 26, 2016

Holiday Inn
1901 Emmet Street
Charlottesville, VA 22901

Join us for the 2016 VSBA Hot Topic Conference in Charlottesville, VA. This conference will pull together two hot topic issues from across the Commonwealth. First attendees will hear from attorneys, education professionals and justice officials on how local divisions can keep students in schools, off the streets, and out of the justice system.

In addition, Bedford County Public Schools representatives (school board member, superintendent, and administrators) will present their story behind the process of integrating personalized learning in the division: where this journey began, how they have implemented this teaching technique, and where their journey will take them in the future.

We hope you will be able to join us for this exciting conference!

Workshop Agenda

Tuesday, April 26, 2016

- 8:30** Registration and Continental Breakfast
- 9:00** Welcome
Bill Kidd, President
Virginia School Boards Association
- 9:05** Closing Achievement Gaps: Efforts Beyond the Classroom
Dr. Steven Staples, State Superintendent
Virginia Department of Education
- 9:15** What Does the School Discipline Research Say?
Jason Langberg, Education Attorney
JustChildren Program of the Legal Aide Justice Center
- 9:45** Changing the Climate in Virginia: How School Boards Can Lead on Discipline Reform
Janel George, Senior Education Policy Counsel
NAACP Legal Defense Educational Fund, Inc.
Dwanna Nicole, Senior Policy Advocate
Advancement Project
- 10:45** Break
- 11:00** Keeping Kids in Schools, Out of Court, and Onto a Positive Healthy Future:
A Graduated Response Model to Reduce Arrests and Improve Graduation Rates
Chief Judge Steven C. Teske
Clayton County Juvenile Court, Georgia
- 12:00** It's Personal: Empowering Learners for the Future
Jason Johnson, School Board Member, Bedford County
Dr. Doug Schuch, Superintendent, Bedford County
Melanie Simmons, Principal, Moneta Elementary School
Caroline Wray, Supervisor of Personalized Learning, Bedford County
- 1:00** Lunch and Adjournment



Rivanna Ridge Professional Building
200 Hansen Road, Suite 2
Charlottesville, VA 22911

A block of rooms has been reserved at the Holiday Inn University Area & Conference Center for the night of April 25th. Please make your hotel reservations directly by calling 434-977-7700. Inform the reservation staff you are attending the Virginia School Boards Association conference to receive a special rate of \$125 (single or double).

The deadline for the reserved block is March 25, 2016. If reservations exceed the block number, or are made after the March 25 deadline, the minimum rate will increase. Please make your reservations by this date.

Questions? Contact
Brianna Hundley at
Brianna@vsba.org.

Fill out the registration form below or register for the conference online at: <https://em.eboardsolutions.com/Events/Registration/Wizard/EventDetails.aspx?C=ifON&EID=GGIK>. Registration for VSBA Conferences is open to VSBA members and affiliate members only.

Thank you to our sponsor

Reminder: Nametags must be visible to be admitted to ALL VSBA meetings and conferences.



Register Online
www.vsba.org



Registration Form

VSBA APRIL HOT TOPIC CONFERENCE

Name _____

Division _____

School Board Member

Superintendent

Other _____

Costs:

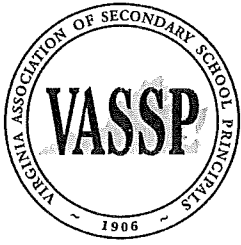
Registration: \$155

Late Registration: \$205 (after April 12, 2016)

Registration fees received after April 12 will be \$205 per person. Purchase orders and registration via telephone do not constitute payment of registration fees and will result in a \$50 late fee if paid after the deadline date. No refunds will be made after April 12 except in the case of personal illness. All requests for refunds must be made to the VSBA president in writing signed by the board chair certifying a personal illness.

Please return this form with your payment to:

VSBA
200 Hansen Road, Suite 2
Charlottesville, VA 22911



Developments in School Law

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Tinker And Student Threats Made On Social Media

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Public school students can face school discipline and serious legal consequences when they use so-called social media to make threats against schools. A few weeks ago, *The Washington Post* reported the arrest of a Virginia high school student who had posted on a message board of the “After School app” an anonymous threat against the school. The newspaper report described the “After School app” as “an anonymous message board that is closed to school officials, parents and other grown-ups,” and is “on more than 22,300 U.S. high school campuses” (Moriah Balingit, *Until threat, school officials didn’t know of app*, *The Washington Post*, December 13, 2015, at C5).

When school officials discipline students for threats posted on social media, the students sometimes ask federal courts to grant First Amendment protection for their threats. The students argue that the United States Supreme Court’s decision in *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969), does not apply to off-campus student speech. In *Bell v. Itawamba County School Board*, 799 F.3d 379 (5th Cir. 2015), the United States Court of Appeals for the Fifth Circuit, sitting en banc, ruled on the application of *Tinker* to a student’s threats made on social media.

The Fifth Circuit described the facts.

Away from school or a school function and without using school resources (off-campus speech), Taylor Bell, a student at Itawamba Agricultural High School ... posted a rap recording containing threatening language against two high school teachers/coaches on the Internet (first on his publicly accessible Facebook profile page and then on YouTube), intending it to reach the school community. In the recording, Bell names the two teachers and describes violent acts to be carried out against them. Interpreting the language as threatening, harassing, and

intimidating the teachers, the Itawamba County School Board took disciplinary action against Bell (799 F.3d at 383).

Bell and his mother challenged the discipline in a federal court, arguing, inter alia, that it violated the student’s First Amendment right to free speech. After the court granted summary judgment in favor of the school officials, the Bells appealed their First Amendment claim to the Fifth Circuit. They asserted that “*Tinker* does not apply to off-campus speech, such as his rap recording; and even if it does, *Tinker*’s ‘substantial disruption’ test is not satisfied” (799 F.3d at 387-388, 391).

The Fifth Circuit rejected Bell’s assertion that “*Tinker* limits its holding to speech inside the ‘schoolhouse gate.’” The court wrote:

Over 45 years ago, when *Tinker* was decided, the internet, cellphones, smartphones, and digital social media did not exist. The advent of these technologies and their sweeping adoption by students present new and evolving challenges for school administrators, confounding previously delineated boundaries of permissible regulations. Students now have the ability to disseminate instantaneously and communicate widely from any location via the Internet.... Although, under other circumstances, such communications might be protected speech under the First Amendment, off-campus threats,

“the school board reasonably could have forecast a substantial disruption at school, based on the threatening, intimidating, and harassing language in Bell’s rap recording.”

Bell v. Itawamba County School Board, 799 F.3d 379, 400 (5th Cir. 2015)

harassment, and intimidation directed at teachers create a tension between a student's free-speech rights and a school official's duty to maintain discipline and protect the school community (799 F.3d at 392) (citation omitted).

The Fifth Circuit said Bell's position—that "Tinker does not apply to speech which originated, and was disseminated, off-campus, without the use of school resources"—was "untenable" because "it fails to account for evolving technological developments, and conflicts not only with our circuit's precedent, but with that of every other circuit to have decided the issue." The court concluded that "based on our court's precedent and guided by that of our sister circuits, *Tinker* applies to off-campus speech in certain situations" (799 F.3d at 393-394).

The Fifth Circuit also decided that *Tinker* should be applied in this case.

The pervasive and omnipresent nature of the Internet has obfuscated the on-campus/off campus distinction advocated by Bell, "mak[ing] any effort to trace First Amendment boundaries along the physical boundaries of a school campus a recipe for serious problems in our public schools." Accordingly ... we hold that *Tinker* governs our analysis, as in this instance, when a student intentionally directs at the school community speech reasonably understood by school officials to threaten, harass, and intimidate a teacher, even when such speech originated, and was disseminated, off-campus without the use of school resources (799 F.3d at 395-396) (citation omitted).

The court added:

Further, in holding *Tinker* applies to the off-campus speech in this instance, because such determinations are heavily influenced by the facts in each matter, we decline to adopt any rigid standard in this instance; or to adopt or reject approaches advocated by other circuits (799 F.3d at 396).

Applying *Tinker* to the facts in this case, the Fifth Circuit said statements in Bell's rap recording:

constitute threats, harassment, and intimidation as a lay person would understand the terms.... [The statements] threatened violence against the two coaches, describing the injury to be inflicted (putting the pistol down their mouths and pulling the trigger, and "capping" them), described the specific weapon (a "rueger" [sic]...), and encouraged others to engage in this action; and harassed and intimidated the coaches by forecasting the aforementioned violence, warning them to "watch [their]

back[s]" and that they would "get no mercy" when such actions were taken. Accordingly ... there is no genuine dispute of material fact that Bell threatened, harassed, and intimidated the coaches by intentionally directing his rap recording at the school community, thereby subjecting his speech to *Tinker* (799 F.3d at 396-397) (citations omitted).

The Fifth Circuit next turned to the question of whether, under *Tinker*, Bell's recording "either caused an actual disruption or reasonably could be forecast to cause one."

Next, we consider whether the school board's disciplinary action against Bell, based on its finding he threatened, harassed, and intimidated two coaches, satisfies *Tinker*. Arguably, a student's threatening, harassing, and intimidating a teacher inherently portends a substantial disruption, making feasible a *per se* rule in that regard. We need not decide that question because, in the light of this summary-judgment record, and for the reasons that follow, Bell's conduct reasonably could have been forecast to cause a substantial disruption (799 F.3d at 397).

In support of its decision to affirm the lower court's judgment in favor of school officials, the Fifth Circuit added:

It equally goes without saying that threatening, harassing, and intimidating a teacher impedes, if not destroys, the ability to teach; it impedes, if not destroys, the ability to educate. It disrupts, if not destroys, the discipline necessary for an environment in which education can take place. In addition, it encourages and incites other students to engage in similar disruptive conduct. Moreover, it can even cause a teacher to leave that profession. In sum, it disrupts, if not destroys, the very mission for which schools exist—to educate.

If there is to be education, such conduct cannot be permitted. In that regard the real tragedy in this instance is that a high-school student thought he could, with impunity, direct speech at the school community which threatens, harasses, and intimidates teachers and, as a result, objected to being disciplined.

Put succinctly, "with near-constant student access to social networking sites on and off-campus, when offensive and malicious speech is directed at school officials and disseminated online to the student body, it is reasonable to anticipate an impact on classroom environment." As stated, the school board reasonably could have forecast a substantial disruption at school, based on the threatening, intimidating, and harassing language in Bell's rap recording (799 F.3d at 400) (citation omitted).