

Guidelines seek line between free speech, bullying

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c. 2012 Religion News Service WASHINGTON (RNS) When Sally tells Jimmy that he's going to hell for believing in a false religion, is that Sally exercising her First Amendment right to free expression, or is that Billy getting bullied?

A broad coalition of educators and religious groups -- from the National Association of Evangelicals to the National School Boards Association -- on Tuesday (May 22) endorsed a new pamphlet to help teachers tackle such thorny questions.

Authored chiefly by the American Jewish Committee, "Harassment, Bullying and Free Expression: Guidelines for Free and Safe Public Schools," contains 11 pages of advice on balancing school safety and religious freedom.

"There are those who believe that we can't have restriction on bullying and protect free speech. Conversely there are those who think that the rules against bullying are so important that they trump any concern for free speech," said Marc Stern, the AJC's chief counsel and lead author of the pamphlet.

"The organizations that have joined in these guidelines believe that that's a false choice."

Among other groups endorsing the pamphlet: the Muslim Public Affairs Council, the Christian Legal Society, the American Association of School Administrators, the Hindu American Foundation, the Islamic Society of North America, the Religious Action Center of Reform Judaism and the Union of Orthodox Jewish Congregations.

A national conversation on bullying that began about a decade ago has been punctuated in recent years by the highly publicized suicides of harassed gay students, and "Bully," a new documentary on the subject.

Now the federal government, 49 states and the District Columbia have anti-bullying policies in place, noted Charles C. Haynes, director of the nonprofit, Washington-based Religious Freedom Education Project/First Amendment Center, which funded the pamphlet.

And while cases in which these rights conflict in schools are rare, they do happen.

"There have been recently in the news some situations in which anti-bullying policies have been used to punish Christian students for expressing their personal religious beliefs while at school," said Kim Colby, senior counsel of the Christian Legal Society.

Colby cited the case of a Fort Worth high school student last year. In German class, Dakota Ary said he believed homosexuality is wrong, and got suspended for it. His teacher had called the comment an instance of possible bullying. Ary's suspension was later reduced.

Stern said the pamphlet was not written in reaction to such cases.

"Each side to this debate can cite horror stories," Stern said. What the pamphlet hopefully will do, he continued, is give educators a framework to avoid the horror stories, and teach students how to express themselves civilly in a democratic society.

The pamphlet can fill a need the judicial system has not, said Francisco M. Negrón, general counsel to the National School Boards Association.

"It talks about the difference between what constitutes a personal attack, and the expression of an idea," said Negrón.

The pamphlet is based on current law governing speech rights and public schools. Private schools have far more leeway in regulating student speech.

Generally, though, giving students more, not fewer, opportunities to express themselves tends to dampen the most noxious speech, Haynes said.

"Most of the time you have problems when schools try to censor the kids from saying anything," he said. "When they're given an opportunity to be civil about their views, and to have a forum that is theirs, in my experience, most students take that very seriously and are very responsible."

Some excerpts from the pamphlet:

-- "Words that convey ideas are one thing; words that are used as assault weapons quite another."

-- "Repeatedly bombarding a fellow student with otherwise protected speech, even if it ostensibly conveys an idea, can also constitute harassment."

-- "Schools themselves are free to communicate in a non-coercive way their own views on subjects that generate controversy in the community."