

## When The Teacher Is The School Bully

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### Education Law Notes

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Anti-bullying laws may now have a significant impact on what is considered to be “emotional abuse” in schools. Recently, the Connecticut Supreme Court concluded that a teacher’s bullying behavior toward a student met the legal definition of emotional abuse. *Nicholas Frank v. Department of Children and Families*, SC 18980, July 8, 2014. In this case, a sixth grade teacher, Nicholas Frank, had been placed on the central registry of abuse and neglect after the Department of Children and Families [“DCF”] found that he had emotionally abused one of his students. The abuse came in the form of targeting an overweight boy in his class by repeatedly calling him demeaning and embarrassing names -- such as “pregnant,” “birthing mother,” “cheeks,” “fish out of water,” -- painfully pinching the student’s cheeks, and effectively encouraging other students in the class to join in. As a result, the student began to suffer from anxiety, bedwetting, fear of school and reduced academic performance. The teacher’s primary defense was that his comments were jokes, said in an effort to keep a light atmosphere in the classroom and could not be considered to be abuse as that term was too vague to apply to his situation.

This case had started as an appeal of a DCF hearing officer’s decision to keep the teacher’s name on the registry of abuse and neglect. The Court concluded that the hearing officer’s decision was based upon substantial evidence, and thus worthy of deference by the Court, and that the abuse and neglect law as applied to this teacher was **not** unconstitutionally vague. In other words, the teacher had fair notice that his behavior fell within the statutory definition of abuse. Such notice came mostly from DCF policy, but also, quite notably, from the anti-bullying and safe school climate law.

In Connecticut, bullying policies and safe school climate plans do not apply to teacher conduct toward students. Acknowledging this, the Court stated that “[a]lthough the statute is expressly directed at student conduct intended to cause harm, it directs teachers to take an active role in preventing and responding to bullying.” The Court went on to note that teachers play a vital role in minimizing, if not eliminating bullying among students. Therefore, the anti-bullying law is further proof that this teacher should have known that his behavior was abusive.

What does this case mean for schools and for teachers?

- ***Bullying by school staff is emotional abuse and neglect.*** This case serves as a clear reminder and example that the kind of behavior that we call “bullying” when it occurs between students can qualify as “emotional abuse and neglect” when a teacher is the perpetrator. To be clear, the behavior in this case was more than mere name-calling. The teacher not only made frequent degrading comments referencing the student’s

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weight, but also physically pinched his cheeks and continued to engage in this conduct despite the visibly and seriously negative effect on the student and the parent's complaints, creating an environment where the other students perpetuated the abuse.

- ***Firm legal ground to terminate.*** In addition to DCF involvement, this teacher had been investigated by the school district and suspended. Being placed on the DCF registry typically results in the revocation of a teacher's certification by the state and consequently the inability to teach in any public school. In essence, this decision by Connecticut's highest court provides school districts with a firm legal basis to impose the strongest of sanctions—termination of employment -- in response to such misconduct.

- ***Highlights need for administrators to respond quickly to such claims.*** This case is another reminder that school administrators need to investigate complaints of emotional abuse by teachers in a timely and effective manner, keeping in mind that as mandated reporters, they may also need to report such allegations to DCF. Failure to do so that results in significant harm to a student could become a liability.

**Posted in** Higher Education

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