

# I Can't Hear You When You Shout

Mark Paige, J.D., Ph.D.

Associate Professor & Chair

Department of Public Policy

University of Massachusetts-Dartmouth



What do you  
hope to get from  
today?\*



# Objectives

1

Place current seeming rise in **tensions** within context.

2

Understand the **operative legal framework and general rules** governing parent, student, educator, rights and school district **duties**.

3

Walk away with some **practical ideas** about effectively managing relationships between educators, parents, and communities.

4

Use court cases to distill legal lessons.

IMPORTANT: This presentation is NOT legal advice. Seek competent counsel when you believe you have a legal issue.

# Your example...to share\*

- Prepare to post to chat (in a sentence or 3)



# *Parents v. Schools ?*

Still in context of  
COVID, post-COVID  
impact

Politicized nature  
of public education  
in state laws and  
political rhetoric.

Contentious School  
Board meetings

Educators (teachers  
and administrators)  
burned out.

# Some good news...

## Parents see improvement in their children's academic progress

Compared to February 2021, parents today are more likely to indicate their child is on track or progressing ahead of the curve

Compared to this time last year, how has your child progressed in the following areas?

■ Ahead of where they should be ■ More or less on track ■ Behind where they should be





This Photo by Unknown Author is licensed under [CC BY-SA-NC](#)

Poll: Describe rate of incidents parental interactions that are crossing bounds?\*

**About same as pre-covid?**

**Increased?**

**Declined?**

# Sources of “the Law” (Broadly)



U.S. & State  
Constitutions

Federal or  
State Statutes

Local Board  
Policies



# Word Association\*

(one at a time)

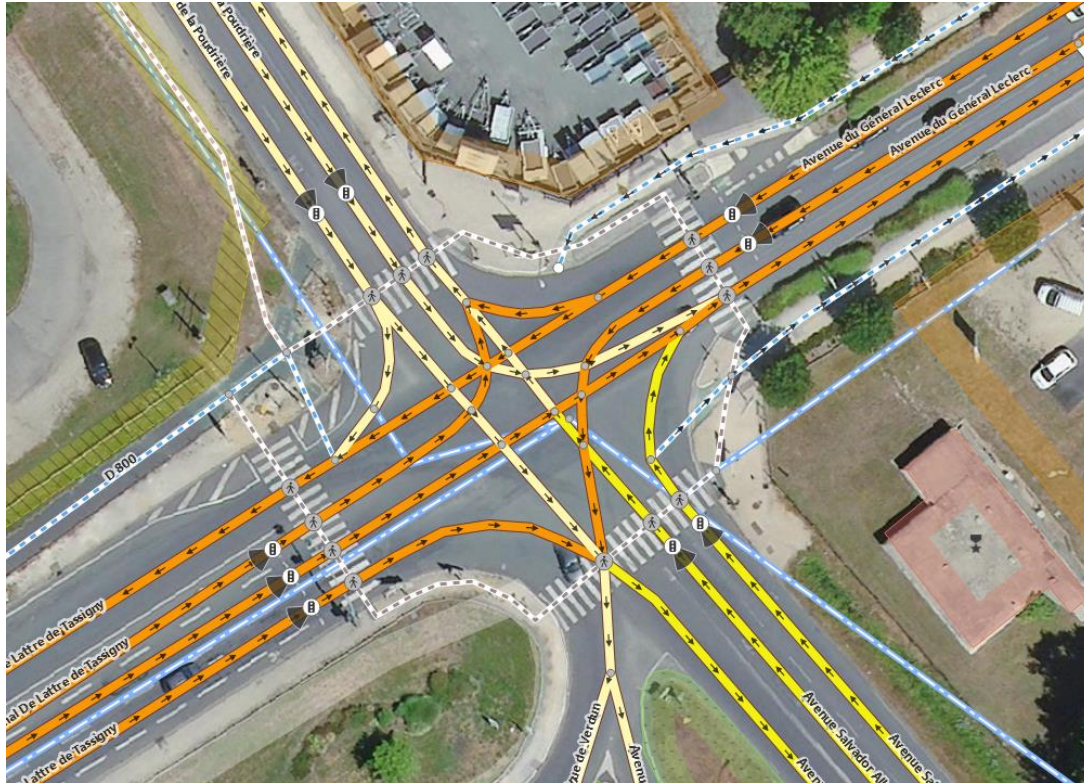
The Law, Parental Rights

First Amendment Rights

The Law and your job as  
principal/educator



# Schools as Intersections of Rights and Responsibilities that Can Collide




[This Photo](#) by Unknown Author is licensed under [CC BY-SA](#)



[This Photo](#) by Unknown Author is licensed under [CC BY-ND](#)



# First Amendment



Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.



# *L.F. v. Lake Washington Sch. Dist. #414*

- Dad sues school district: 1<sup>st</sup> Amend Rights to Free Speech.
- Dad emails were “unproductive and relentless” in context of § 504 Dispute.
- School institutes **Communication Plan**. Bi-weekly, in-person meetings, no email responses, don’t contact employees. No contact with staff or administrators outside plan. He violates plan, then, limited to monthly.
- Exceptions: emergencies, school-wide events.
- **Does this violate father’s First Amendment Rights to Free Speech?\***



You're the Judge: the verdict is...\*



# What Did the Judge Say?



- Parent behavior “unproductive communication”, intimidation, demeaning to staff.
- No restriction on his 1<sup>st</sup> Amend Rights.
  - CP was not a complete communication bar
  - 1<sup>st</sup> Amendment doesn't compel govt response from
- Even if it was a restriction, school here would be *non-public fora* under 1<sup>st</sup> Amendment.
  - Regulations of **time, place, manner of speech**
  - Restrictions must not be arbitrary, or caused b/c disagreement with viewpoint.

# *Johnson v. Perry*

- Parent disputes playing time on Varsity basketball team.
- Ultimately resolved that student would play JV, but principal calls student into office demands/intimidates her to play Varsity b/c they need certain amount of players to qualify for state tournament. [Student records conversation].
- Parent confronts principal at meeting. Principal denies he said anything, Parent says "you're full of crap" to principal.
- Next day, Parent gets email from Principal: No trespass, barring parent from events at school campus and off-school campus. No exceptions.
- Parent prohibited from going to basketball game.
- **First Amendment violation?\***





You're the Judge: the verdict is...\*





# What Did the Judge Say?



- First Amendment issue related to right to peaceable assembly.
- School basketball game is limited forum and distinctions must be reasonable and viewpoint neutral.
- Here, School argued father was a threat to safety to staff and children.
- But, “To justify prohibition...School has to show something more than a *mere desire to avoid unpleasantness*.”

# Forum Analysis in Schools Dictates Regulations

## **Non-Public Forum (L.F. Communication Plan/Access)**

- Is there even a 1<sup>st</sup> Amendment violation?
- Forum typically not open for public expression.
- Content regulations allowed, if reasonable & viewpoint neutral.
- Access restriction possible so long as reasonable, viewpoint neutral.

## **Limited Public Forum (Perry- basketball case)**

- State opens non-public forum, but limits activity to certain topic
- Regulations allowed so long as “reasonable” and “viewpoint neutral.”

# Share Examples From the Field of Overly-Aggressive Parents?\*



What steps would you employ to de-escalate, or manage communication *before*, if possible)?\*





# Steps to De-escalate “Tension”

- Confer with your Guidance Staff.
- Stay calm & professional.
- Empathize. Rephrase what person is saying as means to empathize.
- Is there a reasonable plan?
- **Point to policy & advocate review, if necessary.**
- Document.
- Safety trumps all.

# Federal Proposal & State Parallels



**To support our children, provide for their education, promote their well-being, and secure a brighter future, We the Parents of the United States enjoin this Parents Bill of Rights:**

- 1. Right to know what's being taught in schools and to see reading material**
- 2. Right to be heard**
- 3. Right to see school budget and spending**
- 4. Right to protect their child's privacy**
- 5. Right to be updated on any violent activity at school**

# How would you address new state “Parental Bill of Rights” Laws\*

Right of inspection of curriculum?

Right to see school budget?

Right to be updated on any violent activity?

Right to be heard?

# Local Rules: Find what the rules are already...

- School board policies? Visits? Inspection of Materials? Communication?

## **VISITORS TO THE SCHOOLS**

**KI**

Citizens are encouraged to visit the schools and to observe the school program.

Persons wishing to meet with a teacher for the purpose of discussing a particular problem shall do so only at a time when it does not interrupt the normal school program. Persons wishing to make such arrangements may do so by securing an appointment with the teacher through the office of the principal or by direct contact with the teacher.

No person shall visit a school without first reporting to the office of the principal as to the purpose and place of the visit.



# Review

---

- Before looking at restrictions of speech, or access: What are the best steps I can take to **minimize situation**? Is it worth sounding ideas out?
- First Amendment Analysis:
  - First Amendment Right is not unlimited.
  - Is the forum “non-public” or “limited” public forum?
- Are there **local policies governing communication & access** that I can point to?
- Several of **new state parental right laws** are probably already addressed by what you do or can easily be addressed.
- Seek legal help if you need it.
  - **Majority of parents & community support your work!**

# Questions?



[This Photo](#) by Unknown Author is licensed under [CC BY-SA](#)

# Contact

---

- Mark Paige, J.D., Ph.D.
- Email:  
[mpaige@umassd.edu](mailto:mpaige@umassd.edu)
- 508-910-9037
- [www.umassd.edu](http://www.umassd.edu)

