

Iowa State Board of Education

Executive Summary

March 13, 2026

Agenda Item: Appeal Decision 5232 (In re: Long Term Suspension of E.K.)

State Board Goal: Statutory obligation

State Board Role/Authority: The State Board has the duty to decide this appeal. Iowa Code chapter 290 (2025).

Presenter(s): None (consent agenda)

Attachment(s): Two

Recommendation: It is recommended that the State Board adopt the proposed decision in this matter.

Background: On January 21, 2026, the administrative law judge issued a proposed decision, which affirmed the Respondent's decision in this matter. The time to appeal the proposed decision has passed, and no appeal was filed. The proposed decision, by rule, will be adopted as written. Iowa Administrative Code rule 281-6.6(3).

IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
CENTRAL PANEL BUREAU

)	
In re:)	DIA Docket No. 26DOE0007
)	DE Admin Doc. 5232
)	
Long Term Suspension of E.K., a child)	
)	
)	PROPOSED DECISION
Amanda Benton, Appellant.)	

Appellant Amanda Benton filed an appeal to the State Board of Education (“State Board”), pursuant to Iowa Code section 290.1, of a decision rendered by the North Polk Community School District Board of Directors (“School District”). After this matter was transmitted to the Administrative Hearings Division, a hearing was held at the Division offices on December 3, 2025.

Appellant and her daughter, E.K., were both present, along with their attorney Rueben Neff Fonseca and E.K.’s father, Dustin Kaats. The North Polk Community School District was present through Superintendent Michael Kline and was represented by attorney Carrie Weber. The District submitted Exhibits 1-4, which were admitted without objection. At the hearing, both E.K and Ms. Benton testified. Matt Aicher, Michael Kline, and Jon Richards all testified for the District. Following the submission of post-hearing briefing from both parties on December 12, 2025, this matter was considered fully submitted.

FINDINGS OF FACT

As an initial observation, the Board’s written decision included a comprehensive set of factual findings that largely accurately recount the background of this matter. And as confirmed by the parties at hearing, the foundational facts of this matter are largely uncontested. Moreover, the parties appeared to concur that the fighting issue concerned the impact of the videos and the question of material disruption of the educational environment.

The Videos

Sometime shortly before the beginning of the school year in August of 2025, E.K., who was then thirteen years old and about to enter the eighth grade in the North Polk Community School District, created a Tik Tok account with the username of Red640070. This account was otherwise anonymous and did not contain identifying information. Around this same time, using photos found either in the Middle School yearbook or on the District’s website, she and an online acquaintance created thirteen deepfake AI videos depicting at least fifteen North Polk Middle School staff members

and two school board members. Many of these individuals were to have taught E.K. in the upcoming school year. According to E.K., she created the videos to gain popularity and friends.

A brief description of those videos is as follows.

1. This video portrayed two female teachers, Julie Goering and Heather Cantrell, with diamond emojis and the flashing the phrase “stop scissoring Ms. Cantrel” as their two directory photos bumped in to one another. “Scissoring” is a reference to a sex act.
2. Shows a female teacher, Erika Heuermann, being kissed on each cheek at the same time by different males as another person stands in front of her and rubs her face. The sound of urination plays in the background.
3. In this video, teacher Dylan Hupke is shown lifting a young child onto his lap and kissing his cheek as the phrase “DJ pedophile” is spoken in the background.
4. Teacher Ryan Eberly is shown kissing and hugging another man as a third male walks in the background with the word “boyfriend” spoken over the video.
5. Principal Kline is shown smiling and saying “endorphins make you happy. Happy people don’t shoot their husbands. They just don’t.”
6. Teacher Ann Bonewitz is carrying a machine gun and shooting toward the viewer with explosions in the background.
7. Taken from a photo in which she was presented a teaching award, this video shows teacher Nikki Callal flanked by two school board members as she turns and “twerks” while the phrase “let me suck on your nipples” plays.
8. School administrative assistant Jill Frey is depicted with a large man behind her and putting his hands on her shoulders as the phrase “god damn, I need a footjob” repeats in the background.
9. Teacher Hannah Taylor is shown morphing from a female to a male as two females flank her and kiss her cheek. A voice in the background says “stretch his fucking ass” as there are moans and groans.
10. Teacher Sarah Seligman is depicted as pregnant with an exposed belly and her water breaking, with liquid gushing forth.
11. Teacher Cora Twedt is depicted as a large balloon, spinning around, and flying away.
12. Headshots of two male teachers, Tyler Larson and Ben Carlson, are set in a heart with roses and wedding rings below them, set to vocal references of “black cock, Indian cock, Latino cock, white cock, Jewish cock. Put your fucking cock, I let you fill me up cream me . . . I wanna take three big loads up my ass at the fucking same time, put those three cocks up my fucking asshole, I wanna ride it all at the same fucking time.”
13. A male teacher, Justin Young, and a female teacher, Cora Twedt, are shown flexing while portrayed with fake muscles set to a chant of “Fem boy, twinkie balls.”

E.K. posted these videos to Tik Tok on Friday, August 22, 2025. Eventually, video #1 was viewed over 86,000 times. The other 12 videos were viewed between about 2000 and 3200 times. Additionally, some videos were shared approximately 2000 times and

saved upwards of 1000 times. When a video is saved, the video remains in existence in those accounts and on the user's device even though the original videos may have been removed from Tik Tok.

Investigation

Monday August 25 was the first day of school. When Middle School Principal Richards was made aware of the existence of these videos on the preceding Saturday, his immediate concern was to get them taken down as quickly as possible, and he contacted Superintendent Michael Kline and the school resource officer. Principal Kline had never seen anything of this nature or degree in his fifteen years as a middle school principal. Then, on Sunday, August 24, E.K. (posing at Red640070) posted on Tik Tok "We got caught [peace sign]. I love you all and nobody snitch. I'm keeping the account up but this is my last post. Goodbye everyone this was fun."

On Sunday, E.K. (as Red640070) responded to a post asking her if she had got in trouble by replying that "I've already been interviewed." This was actually not true, as she had not yet been interviewed by administration or the school resource officer, and it is possible she did this to detract attention from E.K. That same day, sometime between 12:30 p.m. and 6:30 p.m., the Tik Tok videos were taken down. But, after an investigation and interviews of several students, signs pointed to E.K. as the creator and poster of the videos. On Tuesday, Principal Richards called E.K. into his office for an interview, during which she admitted that she had created and posted the videos.

Videos' Impact

Prior to the start of school on Monday, Principal Richards had made all of the teachers in the videos aware of their existence, although due to timing he was not able to meet with them personally as he would have preferred. Typically, the first day of school is a time of great excitement, busy activity, and worry for administrators, teachers, and students alike. However, for the teachers involved in the videos this day was decidedly different. They all met prior to school to discuss the situation. Many then had a hard time getting through the day, some were in tears, and many of them had to talk to the school's instructional coach. The assistant principal noticed that that staff emotions ranged from demoralized to sad and angry.

Principal Richards assessed that the videos "ruined" the start of the school year. Two teachers inquired to him about taking a mental health day. All of the impacts of the video took their focus off the instruction of the students, and the students themselves. The videos also were a focus of students' attention, with many kids trying to figure out who had posted the videos. One student recognized a teacher from the videos while in a lunch line and pointed her out.

On the first day or two, the teachers were largely able to keep it together and were able to complete their classes. According to Principal Richards, though, the real impact on the affected teachers happened later that day and as they moved forward. The teachers were uniformly worried about any future effect of the videos on them personally and

professionally. For example, Mr. Hupke, the person portrayed as a pedophile, has an administration degree and in the future may be applying for such jobs. He is rightly and understandably concerned about the fact that his video will be out there and accessible to any future hiring body. He believes he will have to explain this video every time he applies for a job. This could impact future employment prospects.

It is worrisome and even foreseeable that the videos and their impact may affect teachers by causing them to change their teaching techniques moving forward. One of the hardest tasks of a teacher is managing students. When a teacher worries about how a student will react to them if that student disagrees with their teaching or discipline choices, it may cause teachers to question their techniques. This may damage the educational environment. For example, it is foreseeable that teacher might change their disciplinary choices if they are concerned about something similar to the video incident occurring in retaliation.

The record contains evidence of specific impacts on a number of the teachers who appeared in the videos. Some considered, and may still be considering, legal recourse for defamation and to get the videos fully taken down. Another teacher explained how she was shocked and disturbed by the video, and how it has impacted her. At the time of the Board hearing in this matter, she had been crying every day. It has impacted her family. And, she even discovered that there are now other copycat videos of her. One other teacher had been shaking since the incident, and was in fact was still shaking when she read a statement at the Board hearing. Another teacher opined that her teaching had gone downhill since the videos were released, she feels humiliated, and is actually questioning whether she wants to continue teaching. A final teacher felt “devastated” by his video, fearing for his future employment prospects. And some teachers set up counseling or similar appointments outside of school time using employee assistance options set up through the District.

Other teachers who were not in the videos were deeply impacted as well. Many claimed they could not concentrate on teaching students after learning of the videos, and they worried about how some had been saved potentially for future use. One staff member described feeling that the air had been deflated from the room. Others questioned their futures in teaching. There is a mindset now that makes teachers question that what they are doing, because they do not want similar things to happen to them.

Several teachers sent emails to school administrators and board members explaining the impact the videos had on them. Teacher Cora Twedt wrote that she was concerned for student and staff member safety, stating that she had been “personally affected on a deep level,” and that she “feels unsafe to perform my job to the fullest of my ability at times because of the potential backfire or harassment.” As a young teacher, the fears caused by the videos have distracted her from her work and make it harder to give her full attention to her students. She witnesses other teachers being discouraged and demoralized, and she opined that incidents like this erode their ability to emotionally and socially support their students.

Nikki Kallal shared that “[t]he videos themselves have impacted my personal reputation, and the entire situation has impacted me both emotionally and professionally.” And she believed it would be impossible to undo any negative impacts to their personal and professional reputation. Heather Cantrell wrote of her emotional distress and concern about the widespread nature of the videos’ sharing. She asked for a clear response from the District showing how unacceptable this is.

Emily Young, the middle school instructional coach to whom several affected teachers reached out for support, spoke of their anger, shock, and grief. She demanded strong consequences and shared her concern with how E.K. could possibly be returned to a classroom with a teacher who she had made videos about. Teacher Sarah Seligman’s email spoke to the broader concern about what incidents could mean for the profession itself. And, personally, she shared that she “cannot help but feel uncertain about the potential effects of this situation may have on me personally and professionally.” Seligman expressed that she now feels hurt, anxious, exposed, stressed, and vulnerable. To Seligman, the videos affected building morale.

Julie Goering mentioned that the videos had “gained disturbing traction online” and she assessed “the videos [as] defamatory, misleading, and damaging to my professional and personal reputation, as well as that of North Polk Community Schools.” She was concerned about the damage on the individual teachers and the damaged community trust in the schools. Hannah Taylor also asked for “firm consequences” to protect staff and students from the impact of the inappropriate and defamatory videos.

Anne Bonewitz, who was portrayed as shooting an assault rifle, spoke about how her love and joy of coming back to a new school year had been stripped by the “vulgar and slanderous” videos. She mentioned that her insides had been “torn apart” and felt sick and broken inside. She believes another impacted teacher will have to walk on eggshells anytime he is around students from now on. She perceived the video as characterizing her as a threat to the school. She closed by saying:

Right now, the teachers that were in the videos are having a hard time coping and finding the total joy that we have always had. We want to be excited for school, but the videos have had a huge negative impact on the start of the year.

One practical, but still impactful change that this video incident caused at North Polk is that many teachers no longer want their photo to be on the District’s website or in the yearbook. Many teachers had asked that their school photo not be taken for fear of how it might be used. In response, the District has actually decided to remove all teacher photos from its website. Prior to this, it was felt that having photos on the website created a welcoming environment and aided in students and families getting to know their teachers.

Discipline

Under North Polk District Policy 503.02, the school board holds the following authority to discipline:

Students may be expelled for violations of board policy, school rules or the law. It is within the discretion of the board to discipline a student by using an expulsion for a single offense or for a series of offenses depending on the nature of the offense and the circumstances surrounding the offense.

One of a principal's primary duties is student discipline. Normally, disciplinary decisions do not rise to the level of the superintendent, but due to the nature, severity, and widespread impact of these videos, Principal Richards involved Superintendent Kline in this decision. This was a unique situation, one to which they had nothing to compare in their experience. In the end, and based on a variety of factors, both agreed that a year-long suspension was appropriate. This was based on a number of factors. First, they considered this a very serious infraction that deeply impacted and affected the teaching of the entirety of the middle school staff, including not only those staff depicted in the videos. The videos also had the potential for future impact on classroom discipline, school culture, teaching techniques, and classroom management.

They were also influenced by E.K.'s ignored opportunities to cut off and mitigate the videos' impact at an earlier stage. For example, when she learned at least by Saturday that there was an investigation, E.K. posted that "we got caught" but she still indicated that she would be leaving the account up. She then did not take the videos down until sometime later Monday well after she was aware there was an investigation. Had the videos been removed earlier, some of their reach would have been attenuated.

Indeed, E.K.'s attempts to deceive and close ranks moving forward was a factor. In her Saturday Tik Tok post, she warned that nobody should snitch and on Sunday, she falsely claimed that she had been interviewed. It is possible that this lie was meant to throw off investigators, and to lead them to believe somebody else was Red640070. And E.K. never spoke up despite the clear clamor the videos had caused, failing to self-report and waiting until the investigation led administrators to her. All of this implied deceitfulness and extra culpability.

Additionally, they distinguished this disciplinary situation from others based on the potential long term detrimental effect on student and teachers, as well as its overwhelming effect on the community as a whole. And, the fact that E.K. would be going to an entirely new school building the following year, which would allow for a "fresh start" and a reset for E.K. influenced them.

School Board Vice President Matt Aicher, who is a police officer, opined that certain of the videos could be "criminal acts with real consequences." In particular, he suggested that some might meet the definition of third-degree harassment under the Iowa Code. And he thought that the video of the teacher with the machine gun potentially implied an active shooter scenario and could be considered a threat. He and the Board also assessed that each video constituted a separate and distinct act of bullying or harassment. And finally, he recalled Board counsel suggesting that the failure to take

down the videos immediately could constitute a federal crime for sharing non-consensual intimate images.

On September 2, 2025, Principal Richards and Assistant Principal Wolf informed E.K.'s parents that she had been placed on out-of-school suspension, pending further review from the district. Then, on September 4, 2024, Superintendent Kline informed E.K.'s parents by letter that school administration would be recommending to the school board that E.K. be suspended until the end of the 2025-2026 school year, but that she would be provided access to an online education platform during that time, and that she could re-enroll the following year under certain conditions. He also informed the parents that the Board would consider this recommendation at a hearing on September 9, 2026, at which the parents would be afforded the right to "present a response and/or a defense of your student."

Proceedings Before the School Board

At that hearing in which E.K. and her parents were represented by counsel, the Board moved into closed session per Iowa Code 21.5(1)(e) to conduct a hearing to consider whether to suspend or expel a student. Five of the teachers depicted in the videos testified at that hearing, explaining the personal impact the videos had on them. It is notable that the audio file submitted from the Board hearing makes clear the anguish and pain in the voices of those teachers who testified. There were tears, some were physically shaking, and voices cracked.

One teacher recalled severe crying and shaking well into the second week of the year. A different teacher observed that her teaching has gone downhill, while another questioned how this would change her teaching in the future as she worries how students may react to her regular teaching choices. One mentioned that his entire approach to teaching has changed, worrying that anything he says can be twisted, recorded, or used against him. He was also more cautious to discipline students, fearful that a student would react with another similar video.

In its subsequent written decision, the Board found that E.K.'s conduct violated Board Policy No. 503.01 (Student Conduct), Board Policy 502.02 (Student Expression) and Board Policy No. 104 (Anti-Harassment/Anti-Bullying). The first, Board Policy No. 503.01- Student Conduct, states in relevant part:

The board believes inappropriate student conduct causes material and substantial disruption to the school environment, interferes with the rights of others, or presents a threat to the health and safety of students, employees, and visitors on school premises. Appropriate classroom behavior allows teachers to communicate more effectively with students.

Students who fail to abide by this policy, and the administrative regulations supporting it, may be disciplined for conduct which disrupts or interferes with the education program; conduct which disrupts the orderly and efficient operation of the school district or school activity; conduct

which disrupts the rights of other students to participate in or obtain their education; conduct that is violent or destructive; or conduct which interrupts the maintenance of a disciplined atmosphere. Disciplinary measures include, but are not limited to, removal from the classroom, detention, suspension, probation, and expulsion.

Next, Board Policy No. 502.03 — Student Expression and Student Publications, states in relevant part:

It is the goal of the district to protect the educational environment for all students to help ensure it is free from substantial disruption or infringement upon their rights. Student expression should be appropriate to help ensure that the students learn and meet the goals of the school activity and that the potential audience is not exposed to material that may be harmful or inappropriate for their level of maturity.

While students will generally be allowed to express their viewpoints and opinions, in certain qualifying circumstances, student speech may require administrative regulation to help ensure the safety and welfare of the school community. The district may regulate speech that: causes or is reasonably anticipated to cause a material and substantial disruption to the education environment; infringes upon the rights of others; is obscene or lewd; is school sponsored; and/or promotes illegal activity.

Finally, Board Policy No. 104 — Anti-Bullying and Harassment prohibits students, employees, and volunteers from harassing and bullying other students, school employees, or volunteers. The relevant portions of the Policy state:

[S]tudents shall not engage in bullying or harassing behavior while on school property, while on school-owned or school-operated vehicles, while attending or participating in school-sponsored or sanctioned activities, and while away from school grounds if the conduct materially interferes with the orderly operation of the educational environment or is likely to do so.

For purposes of this policy, . . . “harassment” and “bullying” mean any repeated or potentially repeated electronic, written, verbal, or physical act or ongoing conduct toward an individual that creates an objectively hostile school environment that meets one or more of the following conditions:

1. Places the individual in reasonable fear of harm to the individual’s person or property.
2. Has a substantial detrimental effect on the individual’s physical or mental health.
3. Has the effect of substantially interfering with the individual’s academic or career performance. Has the effect of substantially interfering with the

individual's ability to participate in or benefit from the services, activities, or privileges provided by a school.

In addition to finding these three policies were violated, the Board further determined that the videos “caused a material and substantial disruption to the education environment, infringed upon the rights of others, and were obscene or lewd.” And in particular, the Board was motivated by the fact that each video constituted a separate incident of bullying or harassment, and that E.K. decided to leave the videos up for three additional days after acknowledging she had been “caught,” thus causing additional downloads and harm to the affected staff members.

The Board’s end conclusions were summed up in the following paragraph:

Thus, Kaats’ conduct caused a material and substantial disruption to the school environment following the posting of these videos. Kaats’ conduct interfered with the rights of others, including staff who were unable to concentrate and face their students during the first week of school. It interfered with students’ ability to be taught. It also interfered with the lives of staff members and their families who helped them deal with the aftermath of these actions. Kaats’ conduct presents a threat to the health and safety of staff who were deeply affected by the fake posts that were viewed and downloaded and will continue to be viewed, reposted, or disseminated.

After commenting that “the seriousness of this incident cannot be overstated,” the Board then ordered the following:

1. Suspension through the end of the 2025-2026 school year until the start of the 2026-2027 school year.
2. Prohibition from school property and events through the duration of the suspension unless written permission from the Superintendent is obtained.
3. Access to online education via Edgenuity
4. Access to mental health services if needed via Employee and Family Resources.
5. Eight hours of in-person support at the high school or District administration office per week with access to a supporting staff member.¹

The Board also placed certain conditions on E.K.’s ability to re-enroll for the following year, including that she has not engaged in any violent acts, she has a clean criminal record, she has not retaliated against any person, she has not contacted any student involved in reporting her conduct, she has taken a mental health evaluation, and that she abides by all other rules of the suspension.

Impact on Benton and E.K.

¹ E.K.’s mother has elected to not take advantage of this offer of support.

According to Ms. Benton, this suspension has deeply affected E.K. and herself. E.K. misses seeing her friends and she feels isolated and thrown out of her community. She feels like everybody hates her, including her teachers. Ms. Benton used to work, but has had to quit to stay at home with E.K. because she does not feel comfortable leaving E.K. there alone due to some of her “past struggles” including mental health issues. As a single mother, this has taken a great financial and emotional toll.

E.K. explained at hearing that online schooling has not gone well for her. She struggles with the subjects and finds it harder to understand online instruction, as she learns much better in person. She would like to return to class, and would feel comfortable again being around her teachers, although she understands she may need to speak to them with a counselor beforehand. At the urging of her parents, E.K. did handwrite apology letters to all persons portrayed in her videos.

Appeal

In an affidavit, Amanda Benton appealed E.K.'s year-long suspension. In particular, she alleges the suspension is not only disproportionate to E.K.'s conduct, but that it also violates school policy, the Iowa Code, and her constitutional rights. Although she acknowledges E.K. “exercised poor judgment,” she believes it was beyond the District's authority to discipline E.K. because the conduct happened off school grounds.

CONCLUSIONS OF LAW

Iowa Code § 282.4 provides a school district board of directors with discretion to discipline any student from school for a violation of the school district's regulations or rules. Specifically, Section 282.4 provides:

The board may by a majority vote, expel any student from school for a violation of the regulations or rules established by the board, or when the presence of the student is detrimental to the best interests of the school. The board may confer upon any teacher, principal, or superintendent the power temporarily to suspend a student, notice of suspension being at once given in writing to the president of the board.

When a student is suspended or expelled by the school district, the student may be readmitted only by the school district or in the manner prescribed by school district. Iowa Code § 282.5.

Pursuant to Iowa Code section 290.1, an affected pupil or the parent or guardian of an affected minor pupil who is aggrieved by a decision or order of the board of directors of a school corporation may appeal the decision or order to the state board of education. Any decision rendered must be “just and equitable.” Iowa Code § 290.3. The rules regarding the procedures for such an appeal are found at 281 Iowa Administrative Code Chapter 6. The State Board has now transmitted this matter to the Administrative Hearings Division.

An agency's authority to review a school district's decision is only as broad as that vested in it by statute or regulation. *Sioux City Community School Dist. v. Iowa Dept. of Educ.*, 659 N.W.2d 563, 568 (Iowa 2003). "[W]here a statute provides for a review of a school district's discretionary action, the review, by necessary implication, is limited to determining whether the school district abused its discretion." *Id.* In applying the abuse of discretion standard, the Board must look to whether a reasonable person could have found sufficient evidence to come to the same conclusion as reached by the school district. *See id.* at 569 (citing Iowa Code § 17A.19(10)(f)(1)). The reviewing body may not substitute its own judgment for that of the Board. *Id.*

Again, as set out above, the Board found that E.K.'s conduct violated Board Policy No. 503.01 (Student Conduct), Board Policy 502.02 (Student Expression) and Board Policy No. 104 (Anti-Harassment/Anti-Bullying). Synthesizing these three policies, the Board has empowered itself to regulate student conduct, but it conditions that authority on a determination that the conduct or speech has material and substantial disruption to the educational environment. Upon review, I conclude the record supports the Board's determination that in posting the series videos, E.K. violated the letter and spirit of each of these policies.

However, those policies must also be read in conjunction with and interpreted consistently with governing First Amendment principles as espoused by the Supreme Court. This is the fighting issue here. The Supreme Court has ruled that students have First Amendment rights, but that schools can discipline them for speech that "materially disrupts" the educational environment or violates school rules. Landmark cases like *Tinker v. Des Moines* established that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate," but recent cases, such as *Mahanoy Area School District v. B.L.*, have clarified the limits for punishing off-campus speech.

In *Tinker*, the Court stated "[C]onduct by [a] student, in class or out of it, which for any reason—whether it stems from time, place, or type of behavior—materially disrupts classwork or involves substantial disorder or invasion of the rights of others is . . . not immunized by the constitutional guarantee of freedom of speech." *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 89 S. Ct. 733, 740 (1969).

But then, in 2021, in a case where a school district suspended a student for off-campus vulgar language about the school and its cheerleading team, the Court ruled that schools generally cannot punish a student for off-campus speech unless it still causes a "material disruption," involves "substantial disorder," or invades the rights of others. However, it also stated that "the special characteristics that give schools additional license to regulate student speech [do not] always disappear when a school regulates speech that takes place off campus" and that "[t]he school's regulatory interests remain significant in some off-campus circumstances." *Mahanoy Area Sch. Dist. v. B. L. by & through Levy*, 141 S. Ct. 2038, 2045 (2021). The Court additionally noted a school has a "special need to prevent . . . substantial disruption of learning-related activities or the protection of those who make up a school community." And, importantly, the court specifically

mentioned “serious or severe bullying or harassment” and “threats aimed at teachers” as significant regulatory interests for a school even in an off-campus circumstance. *Id.*

It is clear that the disruption caused by a student's conduct must truly be substantial to warrant impinging on that student's First Amendment rights. *Doe v. Univ. of Massachusetts*, 145 F.4th 158, 172 (1st Cir. 2025). But courts have also considered whether the evidence could reasonably support finding that the student's behavior would cause a disruption in the future. *Id.* at 173; *see also Tinker*, at 740 (“[T]he record does not demonstrate any facts which might reasonably have led school authorities to *forecast* substantial disruption of or material interference with school activities, and no disturbances or disorders on the school premises in fact occurred.” (emphasis added)).

But, before I even address the question of disruption, it is clear the Supreme Court has long recognized defamation as one of the categories of speech traditionally not protected by the First Amendment. *See Beauharnais v. People of State of Ill.*, 343 U.S. 250, 256 (1952). So where, as here, the speech concerns a private individual, the government generally may place consequences on such defamatory speech. This is relevant at a minimum to the video depicting one teacher as a pedophile, as this is a false statement of criminality that would expose him to reputational damage, and is thus plainly defamatory. But it is also arguably relevant to the videos alluding to certain teachers' sexual promiscuity. These statements simply have no protection, and would generally be subject to government action, which would mean that the *Tinker* line of cases would not even apply.

Regardless, upon review of this record, and for the reasons that follow, I conclude that E.K.'s posting of these videos meets both the “material disruption” and “rights of others” prongs, such that the District was justified in disciplining her. As I analyze this question, first, it seems needless to attempt to characterize the bulk of these videos as anything other than repulsive. “Disturbing,” a word thrown about in this case, seems to fall short. Collectively, the videos are not “silly” or “funny” in any sense of those words. They defame, they are sexually explicit², and they accuse some of sexual improprieties or innuendo. Most notably, one indicts a teacher as a pedophile.

Nor is there any amount of hyperbole or adjectives that could overstate the impact these videos had on the staff members depicted in them. Simply put, these people were devastated, personally and professionally. Emotionally and physically, they were immediately and significantly affected. While, generally, the effect on the subject of the questionable speech would not be relevant, here it is pertinent because it is that impact on those people that caused the material disruption in the educational environment. This is not about those teachers merely being “offended” by a student's opinion or language like in *Mahanoy* or *Tinker*.

And, while the creation and posting of the videos took place outside of school, the videos clearly relate to the educational environment. Those depicted in the videos were either

² While there is no outright nudity or sexual activities necessarily shown in the videos, the audio in some can certainly be characterized as sexually explicit.

teachers, support staff, or board members. The only reason they were created was because E.K. was about to have them as teachers or took their likenesses from a district website. In other words, they were targeted due to their ties to school. The impact was thus, as can be expected, widespread among school staff. This strengthened the District's imperative to respond.

But again, what is the evidence of either "material disruption" or "substantial disorder" in the school environment? First, there was an immediate and palpable impact upon a wide swath of teachers at the beginning of the school year. Many then had a hard time even getting through the day, some were in tears, and many of them had to talk to the school's instructional coach. Staff emotions ranged from demoralized to sad and angry. Some sought counseling. The fact that this happened on the eve of a new school year only heightened the impact, taking focus away from what should have been an exciting time for teachers and student.

Even beyond that immediate impact at the beginning of the year, additional long-term effects were also apparent. The teachers were uniformly worried about any future effect of the videos on them personally and professionally. Most notably, Mr. Hupke, who was portrayed as a pedophile and who holds an administration degree, is fearful about impacts on his future employability. He is rightly and understandably concerned about the fact that his video still exists and is accessible to any future hiring body. He fears he will have to explain this video every time he applies for a job. And as Principal Richards explained, he could tell the videos were still impacting staff at the time of this hearing. Some teachers have in fact started counseling. And they all know that the videos have been saved, and they are worried when they may pop up again. Furthermore, Superintendent Kline observed that while there is a teacher shortage in Iowa, one impacted teacher was even questioning why she was still in teaching as a profession.

More evidence of long-term impact is the concern that a teacher may have to alter their teaching strategies, rethink classroom management, or be inclined "pull their punches" so to speak with respect to discipline. Several teachers related that the videos have caused new worries about how a student might react to them if that student disagrees with their teaching or discipline choices. Because of the fears a scorned student may react with some action similar to these videos, it has caused teachers to question or change their techniques. This may damage to the educational environment.

For example, it is foreseeable that teacher might avoid disciplining in a manner they have always otherwise assessed as appropriate. It is foreseeable that grading could be impacted based on worries a student might react poorly to a lower-than-expected grade. In fact, at the Board disciplinary hearing, one teacher mentioned that his entire approach to teaching has changed, worrying that anything he says can be twisted, recorded, or used against him. He reported that he was now more cautious to discipline students, fearful that a student would react with another similar video.

One other not insubstantial impact or disruption concerned the widespread demands from teachers to remove their photos from the District website and/or from the annual yearbook. Quite reasonably, many teachers were concerned with how these photos or

their likenesses might be used to exploit them in the future. Responding to these fears, the District has now removed all teacher photos from its website. Prior to this, it was felt that having photos on the website created a more welcoming environment and aided in students and families getting to know their teachers. This positive benefit of website identifications can no longer be realized.

It is also important to note that these videos depicted and impacted a wide swath of the entire middle school. This was not speech or expressive conduct directed to a limited group or individual. This contrasts with the situation presented in *J.S. v. Blue Mountain Sch. Dist.*, 650 F.3d 915 (3d Cir. 2011), where a student created a fake online profile of a singular person, his school principal. The breadth of impacted persons within a particular school here distinguishes this case.

Affected staff persons uniformly demanded the Board impose strong and appropriate consequences on E.K. While appellant's counsel argues the record lacks evidence of lasting or long-term effect on the teachers and the educational environment, one might query whether, if true, that was in fact due to the Board's strong response. In other words, if arguably there is insufficient evidence of disruption or impact, it is not unreasonable to conclude that this was because the District's response was appropriately strong so as to allay any fears that such conduct would be tolerated or repeated in the future. In this regard, Superintendent Kline theorized that the reason disruption was muted at all was due to the strong discipline they put in place.

Superintendent Kline additionally expressed reasonable concerns that E.K.'s return this school year would be unduly disruptive. Similar to concerns noted above, he questions whether the "mind games" attendant to her return, especially in classes taught by teachers she targeted in her videos. For example, if E.K. is disciplined, will she believe she is being retaliated against? Would teachers be worried about imposing otherwise reasonable discipline or grades? He knows that teachers still have hard feelings about this episode and feel violated. He described it as a "weight" upon them. He also expressed a deterrence concern, and a teacher shortage consideration. Although he hopes this does not happen, he believes that if E.K. returns to these teachers' classrooms, they will no longer want to continue teaching.

Finally, with respect to the "rights of others" prong in *Tinker*, one circuit court has held that "bullying is the type of conduct that implicates the governmental interest in protecting against the invasion of the rights of others, as described in *Tinker*." *Norris on behalf of A.M. v. Cape Elizabeth Sch. Dist.*, 969 F.3d 12, 14 (1st Cir. 2020). Moreover, the Eighth Circuit has at least recognized the connection between the rights-of-others prong and tort liability. *See Kuhlmeier v. Hazelwood Sch. Dist.*, 795 F.2d 1368, 1375-77 (8th Cir. 1986) (reversed on other grounds). And another court has recognized that for student speech to invade "the rights of others," it must, apparently, be tortious. *Slotterback By & Through Slotterback v. Interboro Sch. Dist.*, 766 F. Supp. 280, 289 (E.D. Pa. 1991) (citing *Hazelwood School Dist. v. Kuhlmeier*, 108 S.Ct. 562, 570 n. 5, (1988) (Brennan, J., dissenting)).

Here, these videos were not speech critical of school officials in the conduct of their affairs. Nor were they fair commentary on a matter of public or educational concern. Rather, they were potentially defamatory, constituted harassment, and were possibly illegal. To reiterate what has been observed above, several videos allude to certain teachers' promiscuity. Others question their sexual preferences. Another places an assault rifle in a teacher's hand. And one implies, if not states, that a male teacher is a pedophile. This supports a finding that the videos constitute harassment or are otherwise tortious toward the subjects, and thus implicate significant governmental interest in responding to protect the interests of its employees.

ORDER

The school board's decision to suspend E.K. for one year is both just and equitable given the circumstances, including the severity of impact and the disruption on the educational environment, both presently and potentially into the future. The suspension was also not an abuse of its discretion and does not violate either school policy, the Iowa Code, and her constitutional rights. The suspension is therefore **AFFIRMED**. Accordingly, the appeal is dismissed.

cc:

Allison Kanne and Reuben Neff Fonscea, counsel for appellant (AEDMS)
Carrie Weber, counsel for Respondent (AEDMS)
Rebecca Griglione, IDOE (AEDMS)

Appeal Rights

Any adversely affected party may appeal a proposed decision to the state board within 20 days after issuance of the proposed decision.³ An appeal of a proposed decision is initiated by filing a timely notice of appeal with the office of the director. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service.⁴ The requirements for the notice are found at Iowa Admin. Code r. 281-6.17(5). Appeal procedures can be found at Iowa Admin. Code r. 281-6.17(6). The board may affirm, modify, or vacate the decision, or may direct a rehearing before the director or the director's designee.⁵

³ 281 Iowa Administrative Code (IAC) 6.17(4).

⁴ 281 IAC 6.17(5).

⁵ 281 IAC 6.17(7).

Case Title: IN RE: LONG TERM SUSPENSION OF E.K., A CHILD (5232)
Case Number: 26DOE0007
Type: Proposed Decision

IT IS SO ORDERED.

A handwritten signature in black ink that reads "David Lindgren". The signature is written in a cursive style with a long horizontal flourish extending to the right.

David Lindgren, Administrative Law Judge

BEFORE THE IOWA STATE BOARD OF EDUCATION

In re Suspension of E.K., a child,)	
Amanda Benton,)	
)	
Appellant,)	Case No. 26DOE0007
)	DE Admin Doc. No. 5232
vs.)	
)	FINAL DECISION
North Polk Community School District,)	
Respondent.)	

On January 21, 2026, the administrative law judge issued a proposed decision, which affirmed the Respondent’s decision in this matter. The time to appeal the proposed decision has passed, and no appeal was filed. The proposed decision is adopted, as written. Iowa Admin. Code r. 281-6.6(3). PROPOSED DECISION ADOPTED; RESPONDENT’S DECISION AFFIRMED.

This is final agency action in a contested case proceeding.

Any party that disagrees with the Department’s decision may file a petition for judicial review under section 17A.19 of the Iowa Administrative Procedure Act. That provision gives a party who is “aggrieved or adversely affected by agency action” the right to seek judicial review by filing a petition for judicial review in the Iowa District Court for Polk County (home of state government) or in the district court in which the party lives or has its primary office. Any petition for judicial review must be filed within thirty days of this action, or within thirty days of any petition for rehearing being denied or deemed denied.

Dated: March 13, 2026

Iowa State Board of Education, by:

John Robbins, President

CC by certified mail to parties and counsel