Ban the Fan? Dealing with Disruptive Adults

What to do when people just can’t behave

Kristen Garner, Staff Attorney
Does this every happen at your district?
“I have a right to be here—this is public property!”

- The public has no general constitutional or statutory right to be on or use “public property.”
Example: A fan repeatedly shouts critical and abusive names and remarks at a particular student player at a basketball game. He refuses to stop when asked to by the principal, saying, “It is a free country, I can say what I want to and when I want to. Besides, I’m right!”
Kristen,

Last Tuesday night I had to deal with an unruly fan at a basketball game. A long story short, after trying to reason with him by asking him not to yell at other fans and create problems, he continued to do so. Somewhere along the way he said he would whip my ***. Therefore, I told him he had to leave. At the top of the stairs he turns and says he's not leaving and that I can't make him leave. As I try to gain the top step he blocks my path and physically uses his shoulder to bump me back. Yes, he's well known as a community nut. Finally, as the principal escorted him to the lobby I told him not to return to our facilities until he heard from me. I then called the sheriff's department for a deputy to come and make sure he left.

I can ban him from our sporting activities, right? And maybe the premises? If not, why? If so, would you help me with wording a letter to him?
Example

- **Example**: A parent becomes angry with her child’s teacher for “picking on” her son, so she decides to “get even” by coming to school with the son every day and sitting in the classroom, taking notes and glaring at the teacher. “I have every right to be in my son’s classroom and you can’t stop me.” she says.
Example

A parent becomes hostile and angry during a parent teacher conference, which ends badly with the parent shouting obscenities and threatening the teacher with bodily harm. The principal intervenes and tells the parent to leave the school building immediately, or she will call 911. “You can’t kick me out of public property!” shouts the parent. “I pay for this building with my tax dollars!”
DOES THIS SOUND FAMILIAR?
Things you may hear

- These are common things people say to you
- They do not necessarily apply, but they sound scary, so you need to know where you stand
“I have free speech—I can say anything I want to!”

- Free speech is not absolute and unconditional
- How “free” speech can be is determined by the setting or forum
- Most school events (games, board meetings) are limited open forums.
- Instruction/school day is not an open forum at all
“I have a constitutional right to be at my child’s school all the time.”

- Participating in a child’s education means access to and communicating with teachers, not being physically present while education occurs.
“You can’t ban me without a hearing!”

- This is a 14th Amendment procedural due process claim
- There is no law that requires a board hearing
- FOI is a problem with a board hearing
- We recommend that the superintendent serve as the person to whom appeals are made
Be Proactive

- Create rules and expectations for good behavior
- Do not take for granted that people know how you expect them to behave
- Consider this in terms of signs, posters and at sporting events
We welcome visitors to our building and have the following rules and expectations to ensure a pleasant experience occurs! Thank you in advance for your cooperation.

RULES FOR VISITORS

1. Cell phones must be turned off and put away

2. Problem solving order is the teacher or teachers involved, then the building administrator

3. No raised voices

4. No cursing

5. No threatening behavior
Example

If any of the above rules are violated, you will be asked to leave. Refusal to leave when requested is considered trespassing. Repeated violations will result in restrictions to your school visits and could lead to being banned from all school property and events.
You probably need to be proactive about fan behavior at athletic events

- Consider rules at the entrance; failure to follow directions from a school official means you have to leave with no refund
- Consider signs about AAA sportsmanship rules
- Consider talking to AAA about more rules
My Experience:

- My callers seem to want to go from a single incident to a patron being banned for life.
- Banning is legally possible, but is unlikely to be reasonable as a first response.
- Banning should be a last resort, not a first response to a behavior challenged patron or parent.
Start with talking about it

- Typically, people will change their behavior when asked by an authority figure.
- If problems continue, administration should write letter to person explaining problem and desired behavior and consequences if bad behavior continues (get lawyer help!)
Before you consider exclusion

Progressive Discipline

- Warn verbally—remind of what rules are
- Ask to leave event
- Written warning by superintendent
- Involve police/prosecutor to file criminal charges or get restraining order
- If police/prosecutor no help, and behavior is repeated, and SEVERE ENOUGH, consider banning
When all else fails

- As a last and final resort to SERIOUS and PERSISTANT problems, after putting the person on documented written notice that this could occur, consider banning or barring the visitor from some sites or activities.
To exclude visitors, reason must be non-discriminatory and reasonable

- Provide for safety
- Avoid liability for injuries caused by intruders
- Provide sexual harassment free workplace
- Comply with AAA “Good Sportsmanship” rules
Don’t Anticipate!

- Action must be based on actual, past events, not fear or anticipation of future, more serious events.

- Courts are very unimpressed by “something bad could happen” when nothing had has happened.
Don’t Anticipate!

- Example: Parent curses once; can’t ban based on concern parent will curse again or utter threats next time.
Sidebar: what if the person is also your employee?

- I have terminated employees for out of control behavior at sporting events

- The situation is less clear when the employee is wearing “the parent hat.”
Are you blurring lines?

- If you interrupt an employee’s work day to talk to them as a parent, you are in an awkward spot when they ambush a coworker regarding their own child and get excited or rude.
Are you blurring lines?

- ALL parents should use “the system” to get a parent conference, including employees.

- Teachers should communicate in the same way with regular parents as parents who are also district employees.
Once your lines and boundaries are clear

- You are in a better position to differentiate between employee behavior (higher standard) and parent behavior (lower standard.)
BACK TO PATRONS . . .
How much is enough?

- Lower threshold of trouble needed to ban or bar from instructional setting or school buildings during the day.
- Higher threshold of trouble if considering ban or bar from public events such as games, performances or other public events.
Your conflict may not be my conflict

- School district personnel tend to apply a student standard of behavior to adults
- Standard is “reasonable (adult) person”
- This means “Wal-Mart shopper standard for adults” not “student at school standard projected on adults”
- Call for legal advice
Role of Law Enforcement

- Always try the law/prosecutor route, if you can get cooperation
- Restraining order violations enforced by police, not you
- Appeal to a higher authority
Role of Law Enforcement

- Sometimes this doesn’t work—Why?
  - Standard of conflict issues between school administrators and police
  - Problem behavior must violate criminal code, not just be rude and inappropriate
  - Restraining orders only issued in context of criminal charges filed
  - Law enforcement priorities
Legal basis for banning adult

- 6-21-606 Annoying conduct by trespassers
- 6-21-607 Loitering on or near school grounds
- Key: withdraw permission based on conduct and characterize entry without permission as trespass
- Do not do this without lawyer supervision!
Reasonableness

- Last resort, not first response
- Cannot be discriminatory
- Cannot be overbroad
- Example of overbroad: permanent banning from all on campus events based on a single cussing incident
Notification

- This letter/situation is handled by the superintendent. Superintendent gets LEGAL HELP with the letter—the more public the place is being banned from, the more outrageous or extreme the behavior or conduct must have been to justify it.
- Cannot be discriminatory in nature
- Try to get person's side of story if it is being reported by others, first; if not, give opportunity for individual to write a letter of appeal to superintendent with his side of the story (due process).
- Letter will contain the word “trespass”
Notification

- Letter will provide a process for superintendent to make exceptions
- You need to have a provision where an exception can be made by the superintendent for a special, one-time event.
- Deliver by hand or certified mail
Can we ban from away games?

- You control your property.
- You have no control over other school districts.
- You cannot ban from away games, BUT, you can make other school district aware of your “problem patron.”
After the Banning

- Deliver a copy to SRO or police (not containing defamatory information (i.e., the REASON), just part about not being allowed on campus; keep copy handy
- Notify school employees on a need to know basis (but not reason)
After the Banning, continued

- Tell school employees what to do if the person does come on campus
- Considering circumstances, may want to provide photo to staff but you need to make sure they do not in turn re-share this
- Establish emergency protocols with school security and local law enforcement.
Questions?
Thank You!