

Good evening Lower Moreland Township School Community,

This evening, there are a number of similar public comments/questions related to the events shared in the letter communicated by Dr. Davidheiser this past Sunday, 1/17/21. There is obvious anger and disgust among many community members with regard to the content of a text string among high school students from last spring, as well as disappointment from the Lower Moreland community for the district's lack of action in informing the school community of a threat under investigation at that same time.

The district feels it is important to inform our school community with regard to its own legal authority regarding "off-campus" speech. In June of 2020, the 3rd Circuit handed down a decision (*B.L. v. Mahanoy Area School District*) which explicitly held that "off-campus" speech by students is protected by the First Amendment to the same extent as any private adult citizen. "Off-campus" means that the speech did not occur at school or at a school sponsored event or on school issued equipment. The Court specifically rejected the argument that if the speech is about school, or students or teachers, that it somehow becomes "on-campus" speech subject to some restrictions. The text exchanges at issue here would fall squarely within the Court's definition of "off-campus" speech, meaning that the District has no legal authority to discipline, therefore code of conduct actions cannot be imposed. Even under the standard before *Mahanoy*, the text exchange here did not have enough of a nexus to the school to allow the District to impose discipline. The First Amendment protects speech, no matter how ugly or offensive, and students are protected by the First Amendment. Certainly, the district shares many of our community members' disappointments with the racist and threatening language.

It's important to note that credible threats are not necessarily protected by the First Amendment. However, in this case both the District and local law enforcement concluded that the text exchange did not include any concrete, credible threat. That conclusion is bolstered by the subsequent history – the District has not been informed of any incident involving an Asian student that flowed from the text exchange some 10 months ago. The district recognizes that widespread systemic approaches to diversity and inclusion are, oftentimes, more effective than traditional discipline, and we have been and are committed to that path.

It is with this in mind that the district has begun the search for consultants to assist the district in developing an equity and diversity plan and trainings, one that may include, but not limited to the following: new/updated policies, professional development for administrators and staff, surveys and dialogues with the community, student assistance programs and curricular reviews. The district hopes to bring forward a recommendation of a and outline of next steps to the Board of Directors at our next Work Session, Feb. 2. All voices of those impacted in events are always important to the healing process and invariably the learning process for all. The district is dedicated to allowing our school community the opportunity to have their voices heard through equity and diversity planning.