Faculty, Sex, and the Internet: How One Court Decided Off-Duty Conduct Harmed the Learning Environment

sexually explicit messages sent via email, internet, Facebook, Twitter and the like have been getting a number of people in hot water, including politicians and other high-profile officials. Now, add to the list academic employees after a California Court of Appeal recently overturned a Commission on Professional Competence’s decision to reinstate a public school instructor, ordered Lampedusa reinstated, reasoning "duty," among other charges. The administrative decision must be set aside and the instructor’s decision must be reversed. Certainly, if minor-aged students and their parents have seen the Craigslist ad, it would have impacted Lampedusa’s ability to teach and guide these students in the future. Community college faculty, on the other hand, instruct adults. Arguably, there is less of an impact on students in the community college setting than in a middle school setting. This is not to say that a court may similarly find some impact on students in cases involving community college faculty.

However, the “Morrison factors” which could weigh similarly in a community college setting include: (1) the adverse impact it may have on fellow educators in the district; (2) that the conduct was not remote in time; (3) that the conduct was public; (4) the lack of responsibility taken and lack of remorse by the faculty member; (5) the potential for repetition; (6) the conduct evidences indecency and moral indifference; and (7) the conduct is not constitutionally protected free speech because of its obscene nature.

As the Internet and social media become more prevalent in everyday society, we can expect that there will be an evolution in case law addressing the intersection of “private” life and public employment. 

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