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## SOCIAL NETWORKING AND OTHER PITFALLS IN THE DIGITAL AGE

Presented by Andrea Price of Langenkamp, Curtis & Price, LLP

With the advent of cell phones with cameras, the internet and social networking sites, all employees (including certificated employees) are facing new challenges. Assume you are being monitored!

### I. Technology

A. Facebook/MySpace. Social Networking sites are the latest minefield to navigate. You do not have a reasonable expectation of privacy in what you post! Be careful! Employers are using these accounts to mine for data and find evidence of misconduct.

1. Examples of employers disciplining/terminating employees for comments on social network sites. See attached articles.
2. Doesn't the 1<sup>st</sup> Amendment protect me from being disciplined for my Facebook comments? Not necessarily!
  - a. The courts have developed a five-part inquiry for determining whether discipline constitutes illegal retaliation for protected speech. (1) Is it a matter of public concern; (2) Whether the employee spoke as a private citizen or as a public employee; (3) Whether the protected speech was a substantial or motivating factor in an adverse employment action; (4) Whether the employer had an adequate justification for treating the employee differently from other members of the general public; and (5) Whether the employer would have taken the adverse employment action even absent the protected speech.
  - b. A statement is generally not protected if it impairs discipline or work relationships, or gets in the way of your duties or the administration of a public service. A school district is allowed to prohibit its employees from using discriminatory and offensive speech to the public or other co-workers. Employers are given wide discretion in responding to these types of statements in the workplace.
  - c. Making disparaging remarks about co-workers/administrators is generally not protected.
  - d. More protections for employee speech on the horizon? See attached New York Times article on NLRB filing a complaint against American Medical Response of Connecticut for firing an employee over Facebook criticisms of her supervisor.

3. Advice on Using Facebook and other Social Networking Sites

- a. Students. Never, ever “friend” students unless the student is a relative. Even with this exception, we strongly discourage “friending” students.
  - b. Administrators. Be very careful about “friending” administrators or your superiors. If administrators have access to your Facebook page, they can mine information about you that you might not want them to know. You may be social friends, but they have a job, which could include reporting any concerns they have about misconduct, based on what you have posted.
  - c. Privacy Settings.
    - i. Ratchet up your privacy settings to the highest setting.
    - ii. You can also select which “friends” get to see your wall postings. Only allow friends to see your Facebook postings, not friends of friends.
    - iii. If you allow others to see “tagged” photos of you, review these regularly to ensure that the photos are not inappropriate.
    - iv. Review your privacy settings regularly. Facebook frequently revises their privacy settings which will reset your privacy settings.
  - d. Vigilantly Monitor your Account. Review postings on your wall. Remove any inappropriate postings immediately.
  - e. Avoid Discussion of Work Matters. Refrain from discussing work matters on Facebook with any specificity. Do not name or refer to students or academic personnel.
- B. Cameras/Recording. Be careful about what you say in class and how you manage your classes. Many students have portable cameras and/or voice recorders and can surreptitiously record anything you say or do. It is illegal to record someone without permission but it is not a defense in a disciplinary proceeding. By the same token, do not record your students without express administration and parent permission.
- C. Email: Do not put anything in a work related email that you would not want to show your boss, your mother or your child. An email is a permanent electronic record of your communications with your principal, co-workers, students and parents. Once you press send, the email is out of your hands and

out of your control forever. Even if you delete an email, forensic experts can still recover it.

D. Online Internet Sites: When using District computers, employees must avoid viewing offensive, immoral or questionable internet sites. Districts can and have hired forensic experts to document and reconstruct employee site viewing/browsing history.

1. If you find pornography or other inappropriate material on your school computer – report it immediately!
2. Do not let students access your computer.
3. Never leave your school computer unattended – always log out.

E. Inappropriate Student Behavior & Technology

1. Students creating phony Facebook/My Space accounts. Report these immediately!
2. “Sexting”: Potential child pornography on cell phones! Immediately send student to the office for administration to deal with.

## II. STUDENT/TEACHER RELATIONSHIPS

A. Classroom Atmosphere. Teachers are responsible for providing a safe learning environment. You must treat all students respectfully, equally, and with dignity.

1. Avoid playing favorites.
2. Do not embarrass or humiliate students.
3. Do not insult students or use sarcasm.
4. Do not frighten students.
5. Do not make off-color remarks, jokes, double-entendres, or statements, especially if it concerns race, sex, sexual orientation, or other protected class. Be aware of unconscious sexism!!!
6. Refrain from crude behavior (e.g., burping).
7. Do not comment on a student’s physical appearance, except to the extent you are enforcing a dress code.
8. Avoid references to sex and profanity. Ed. Code §233.5.
9. Do not permit bullying or harassment; do not dismiss complaints of bullying and harassment as normal behavior or “boys will be boys” type behavior that will resolve itself. School districts and employees cannot be “deliberately indifferent” to harassment! Davis v. Monroe County Board of Education.

B. Physical Interactions. You should try to minimize physical contact with students to the extent possible.

1. PE and pre-school teachers be cautious! You patting a student on the back or guiding a student could become “putting your hands on a student.”
  2. A teacher is privileged to use the same amount of force a parent would use to maintain classroom order. Education Code §44807.
  3. When can you touch students? Breaking up fights, first aid, emergencies.
- C. Avoid Being Overly Familiar. Your students are not your friends!!! You are their teacher. Do not engage in behavior that some might perceive as overly familiar!!!
1. Do not give your students a lift home.
  2. Do not exchange private e-mails with students.
  3. Do not invite students to your home unless it is part of a school or class function where other adults and/or students will be present.
  4. Do not discuss private issues or moments with your students. Those conversations are for your spouse, family, and personal friends.

## II. PRIVATE LIFE/OFF-DUTY CONDUCT

As an adult, you have the right to a private life and to engage in any lawful conduct you wish during off-duty time or hours. However, if you wish to engage in activities that some might find scandalous, immoral, or distasteful, you should seriously think about the potential fall out.

- A. Sex. Private, consensual activity of a sexual nature can sometimes result in discipline, revocation of your credential, or could even result in an attempted dismissal.
1. Keep your sexual activities or interests private and out of classroom discussions or conversation.
- B. Drugs. Don't advocate for the use of drugs. If you wish to participate in lawful activism (e.g. Prop 19), be careful.
- C. Classroom. Keep in mind that your classroom is not your home! Do not keep controversial literature, medication, alcohol, or other private items in your classroom. Do not use your classroom for private purposes – your classroom is for instructional/academic activity only. Nothing else!

\* This Agenda is for general training purposes only and does not constitute legal advice on individual issues.

*Ed Code 49079*

## TheBostonChannel.com

### H.S. Teacher Loses Job Over Facebook Posting

#### Cohasset Supervisor Resigns Over Remarks About School, Students

POSTED: 7:06 am EDT August 18, 2010  
 UPDATED: 10:34 am EDT August 18, 2010

**COHASSET, Mass.** -- A Cohasset teacher, unschooled in the ways of Facebook, learned a stinging lesson this week after she lost her job over comments she put on her page.

The postings on the social networking site were discovered by Cohasset parents on Tuesday, but in just one day they caused such a furor that by Tuesday afternoon the teacher, Dr. June Talvitie-Siple, a supervisor of the high school's math and science program, was forced to resign.

"Clearly, Dr. Siple didn't know how to work Facebook. Maybe she's a great bio teacher, but the Internet is not her thing," said senior Olivia Yerardi.

The teenagers get it, but Siple learned the hard way that her Facebook postings, which were supposed to be private, were not.

"It's not smart, but if you are in professional position, maybe you shouldn't be putting what you really feel about your job or whatever on Facebook," said student Terry MacCormack.

On her Facebook page, Siple called the residents of Cohasset "arrogant and snobby," and said that she is "so not looking forward to another year at Cohasset schools."

As the high school supervisor for math and science, Siple was making more than \$92,000 a year.

"I think that's pretty ungrateful, taking that much of the town budget going into the schools, filling up the position, teaching kids when her heart wasn't in to it," said resident Sam Green.

In a telephone interview, Siple said she is not apologizing for her comments, but that she is sorry that they went public. She said she was referring to the political situation in the school, which she called "very stressful," and she said she thought she was only blowing off steam with friends in private.

But back in February, when Siple got sick, she wrote on her page, "Now I remember why I stopped teaching kids. They are all germ bags."

Siple said her Facebook friends knew it was a joke.

Related To Story

#### H.S. Teacher Loses Job Over Facebook Posting

POSTED: 4:56 am EST August 18, 2010  
 UPDATED: 9:21 am EST August 18, 2010

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A Cohasset, Mass., high school teacher and supervisor has lost her job over remarks she made to friends on her Facebook page.

Recommend 1,827 people recommend this.

#### SURVEY

A Cohasset teacher has lost her job because of a post she made on her Facebook page. Should she have?

- Yes  
 No  
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"It's horrid. Who says that about children you are teaching, children you are raising that you are a role model for?" said parent Susan Wilcox.

Siple said she honestly thought she had set her Facebook settings on private and she took full responsibility for not doing so.

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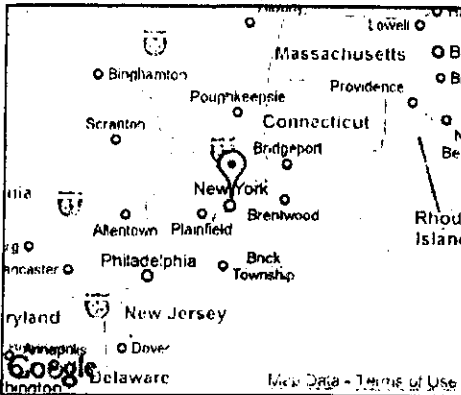


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## Three NYC Teachers Fired for Facebook Flirting With Students

Source: AHN  
Location: New York, NY, United States  
Topics: Science And Technology, Education, Technology, School, High Schools  
Reporter: Ayinde O. Chase  
Published: October 19, 2010 10:34 a.m. EST



Three New York City teachers have been fired for improper conduct with students on Facebook.

In addition to "friending" too many students and posting inappropriate comments, one teacher's Facebook friendship with a former student led to a sexual relationship.

Chadwin Reynolds, Laurie Hirsch and Stephen D'Andrilli apparently "liked" too many students and have now prompted a teachable moment.

Reynolds, 37, wrote "This is sexy," under some of the girl's Facebook photos. Reynolds, a former Fordham High School for the Arts teacher, even allegedly tried to get a teen to go on a date with him. He got her phone number and sent her gifts including flowers, candy and a teddy bear.

Hirsch, 30, a former paraprofessional at Bryant High School in Long Island City, Queens, was let go in May when her Facebook dealings with a student became known. She posted a picture of her kissing the male student, which prompted an investigation. The boy told authorities that he and Hirsch had sex in her apartment 10 times. Hirsch said nothing occurred until after the student left the school.

"I was suspended indefinitely" for using a cell phone too frequently during school time, she said in a *New York Post* report. "And it didn't seem in any way, shape or form that I was getting my job back" when the relationship with the boy took off.

D'Andrilli's interactions were a bit more creepy. The former Manhattan substitute teacher "friended" numerous female students at Essex Street Academy. School investigators say he even tried to visit one female student during her Saturday classes and told another girl that her "boyfriend [did not] deserve a beautiful girl like you."

Currently there is no school board policy that addresses teacher-student communication on Facebook

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[news-record.com](http://news-record.com)

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## Update: Charlotte school employee fired over Facebook post

Tuesday, November 25, 2008  
(Updated 11:58 am)

By **THE ASSOCIATED PRESS**

CHARLOTTE (AP) — A school employee has been fired after posting an offensive message on the social networking site Facebook, and Charlotte-Mecklenburg Schools officials say a teacher could be next.

School system spokeswoman Nora Carr said the after-school staffer was an "at will" employee who couldn't appeal the firing. He was among seven employees disciplined because of Facebook entries, The Charlotte Observer reported today.

A teacher at Thomasboro Elementary School also could face termination after writing on her Facebook page that she was "teaching in the most ghetto school in Charlotte." The teacher met Monday with Superintendent Peter Gorman, who recommended she be fired.

The teacher's attorney, John Gresham, said his client didn't intend to offend her students and was telling the truth about the resegregated school, where only 3 percent of students are white and 93 percent qualify for lunch subsidies to low-income families.

Gresham said "ghetto" is defined as a part of the city in which members of a minority group live, especially because of social, legal or economic pressure.

"I guess the question is, can you be terminated for telling the truth?" Gresham said. "Should she have said, 'I teach children at a starkly resegregated school?'"

Gresham said if the teacher is fired, she will be entitled to a hearing by a case manager and an appeal to the school board. He said the school system also cited photos of her at a bachelorette party.

Carr, the district spokeswoman, also said a high school special education teacher was suspended after writing on her site, "I hate my students."

Carr said four other employees have received lesser punishments for photos or comments.

School system Chief Operating Officer Hugh Hattabaugh sent a memo last week to the system's more than 19,000 employees warning that postings on networking sites could cost employees their jobs.

### Related Links

- [Charlotte teachers disciplined for Facebook posts](#) (Nov. 12, 2008)
- [Charlotte teachers warned about Web use](#) (Nov. 19, 2008)

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Company Accused of Firing Over Facebook Post

By STEVEN GREENHOUSE Published: November 6, 2010

In what labor officials and lawyers view as a ground-breaking case involving workers and social media, the National Labor Relations Board has accused a company of illegally firing an employee after she criticized her supervisor on her Facebook page.

This is the first case in which the labor board has stepped in to argue that workers' criticisms of their bosses or companies on a social networking site are generally a protected activity and that employers would be violating the law by punishing workers for such statements.

The labor relations board announced last week that it had filed a complaint against an ambulance service, American Medical Response of Connecticut, that fired an emergency medical technician, accusing her, among other things, of violating a policy that bars employees from depicting the company "in any way" on Facebook or other social media sites in which they post pictures of themselves.

Lafe Solomon, the board's acting general counsel, said, "This is a fairly straightforward case under the National Labor Relations Act -- whether it takes place on Facebook or at the water cooler, it was employees talking jointly about working conditions, in this case about their supervisor, and they have a right to do that."

That act gives workers a federally protected right to form unions, and it prohibits employers from punishing workers -- whether union or nonunion -- for discussing working conditions or unionization. The labor board said the company's Facebook rule was "overly broad" and improperly limited employees' rights to discuss working conditions among themselves.

Moreover, the board faulted another company policy, one prohibiting employees from making "disparaging" or "discriminatory" comments when discussing the company or the employee's superiors and "co-workers."

The board's complaint prompted Morgan, Lewis & Bockius, a law firm with a large labor and employment practice representing hundreds of companies, to send a "lawflash" advisory on Monday to its clients, saying, "All private sector employers should take note," regardless "of whether their work force is represented by a union."

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The firm added, "Employers should review their Internet and social media policies to determine whether they are susceptible to an allegation that the policy would 'reasonably tend to chill employees' " in the exercise of their rights to discuss wages, working conditions and unionization.

American Medical Response of Connecticut denied the labor board's allegations, saying they were without merit. "The employee in question was discharged based on multiple, serious complaints about her behavior," the company said in a statement. "The employee was also held accountable for negative personal attacks against a co-worker posted publicly on Facebook. The company believes that the offensive statements made against the co-workers were not concerted activity protected under federal law."

The case involves Dawnmarie Souza, who had to prepare a response to a customer's complaint about her work. Ms. Souza, the board said, was unhappy that her supervisor would not let a representative of the Teamsters, the union representing the company's workers, help prepare her response.

Ms. Souza then mocked her supervisor on Facebook, using several vulgarities to ridicule him, according to Jonathan Kreisberg, director of the board's Hartford office, which filed the complaint. He also said she had written, "love how the company allows a 17 to become a supervisor" — 17 is the company's lingo for a psychiatric patient.

The labor board said that her comments "drew supportive responses from her co-workers" and led to further negative comments about the supervisor. Mr. Kreisberg said: "You're allowed to talk about your supervisor with your co-workers. You're allowed to communicate the concerns and criticisms you have. The only difference in this case is she did it on Facebook and did it on her own time and her own computer."

An administrative law judge is scheduled to begin hearing the case on Jan. 25. Marshall B. Babson, a member of the National Labor Relations Board in the 1980s, said a broad company rule that says one cannot make disparaging comments about supervisors is clearly illegal under labor law. But he said an employee's criticizing a company or supervisor on Facebook was not necessarily protected activity.

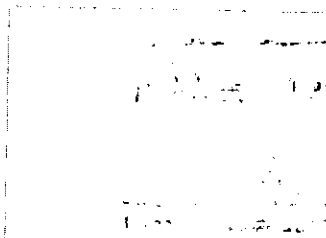
"There will arguably be cases where it is not concerted activity," Mr. Babson said, suggesting that if a worker lashed out in a post against a supervisor but was not communicating with co-workers, that type of comment might not be protected.

If the Facebook conversation involves several co-workers, however, it is far more likely to be viewed as "concerted protected activity," he said.

But employees might cross the line into unprotected territory if they disparage supervisors over something unrelated to work — for instance, a supervisor's sexual performance — or if their statements are disloyal.

Courts often view workers' statements as disloyal when they are defamatory and are not supported by facts. Mr. Babson cited a case upholding the firing of airline workers who held signs saying their airline was unsafe. But, he said, if employees held signs accurately saying their airline or restaurant had been cited for dozens of safety violations, that would most likely be protected.

A version of this article appeared in print on November 9, 2010, on page B1 of the New York edition.



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# TRIBUNE-REVIEW

## Brownsville Area teacher relieved her name is cleared

By Liz Zemba  
TRIBUNE-REVIEW  
Wednesday, August 18, 2010

When a Fayette County teacher was suspended from her job after another teacher posted photos of her with a male stripper to the Internet, she feared more for her father's 34-year legacy in the school district than she did for her own career.

"The first thing I thought about was my father, who had been there so long," said Ginger D'Amico, a Brownsville Area High School Spanish teacher whose father also taught in the district.

"That's all I could think about," said D'Amico, referring to her late father, Orlando "Lundy" D'Amico. "My father's name, drug through the mud."

D'Amico, 37, spoke publicly for the first time about the suspension during a news conference yesterday held by the American Civil Liberties Union at its office in Pittsburgh. District superintendent, Philip J. Savini Jr., imposed the 30-day suspension Jan. 11 after photos from a bachelorette party at D'Amico's house surfaced on the social networking site Facebook.

The suspension was reduced to 19 days after the ACLU advised the district it is "unconstitutional retaliation" for legal activities that occurred outside the classroom, said Witold "Vic" Walczak, the ACLU's legal director in Pennsylvania.

Yesterday, Walczak said the district agreed to split a \$10,000 settlement between the ACLU and D'Amico. It will reimburse D'Amico \$2,842 in net pay, remove all mention of the incident from her personnel file, and drop its opposition to a grievance filed by the Pennsylvania State Education Association.

In return, D'Amico will not seek legal action against the district. Jim Davis, solicitor for the school board, declined comment.

The photos, snapped at the Dec. 19 party, were removed from Facebook less than 24 hours later when D'Amico learned of them and contacted the teacher who posted them, D'Amico said,

Although D'Amico said the photo depicts her "laughing and pushing" the stripper away, district officials previously said it is suggestive of a sex act. D'Amico said Savini advised her she was suspended -- other employees were given letters of reprimand -- because she was the only teacher who could be identified in the photos.

Noting she had an unblemished record in 14 years of teaching, first in Baltimore County, Maryland, and then in Brownsville, D'Amico said the suspension was emotional.

"I really was devastated, because I take pride in being a good teacher, and a mentor," D'Amico said. "It kind of ripped my heart out."

Although D'Amico's identity was never officially released until yesterday, parents and students turned out to support her. One parent started a Facebook site and Internet petition to have D'Amico reinstated.

Walczak said the case illustrates how advances in technology and social networking sites have raised questions about when public employers can discipline employees for off-the-clock behavior.

"Think about the backyard barbecue, the evening at a bar, when you think you're in private but somebody's got that cell phone out. They're taking a picture, and they're recording you, and next thing you know, they are putting it up on their Facebook, and it goes viral," Walczak said. "A question that is raised by this case is to what extent can public employers discipline their employees for off-duty conduct."

Butch Santicola, PSEA spokesman, said although D'Amico's case is resolved, the union is working with the district to have the other employees' letters of reprimand removed. He said an arbitration hearing is set for September.

Santicola said the PSEA has intervened in similar cases and anticipates handling more in the future.

"This is something that is occurring with our members almost on a daily basis," Santicola said. "The technology that's out there, with the cell phones and cameras, pictures are being taken (and posted on) Facebook, Twitter, all of them."

*Liz Zemba can be reached at [lzemba@tribweb.com](mailto:lzemba@tribweb.com) or 724-836-6646.*

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## 'Sexting' surprise: Teens face child porn charges

6 Pa. high school students busted after sharing nude photos via cell phones



By **Mike Brunker** Projects Team editor

msnbc.com

updated 1/15/2009 8:03:18 PM ET

In an unusual legal case arising from the increasingly popular practice known as "sexting," six Pennsylvania high school students are facing child pornography charges after three teenage girls allegedly took nude or semi-nude photos of themselves and shared them with male classmates via their cell phones.

The female students at Greensburg Salem High School in Greensburg, Pa., all 14- or 15-years-old, face charges of manufacturing, disseminating or possessing child pornography while the boys, who are 16 and 17, face charges of possession, according to WPXI-TV in Pittsburgh, which published the story on its Web site on Tuesday.

Police told the station that the photos were discovered in October, after school officials seized a cell phone from a male student who was using it in violation of school rules and found a nude photo of a classmate on it. Police were called in and their investigation led them to other phones containing more photos, it said.

Police Capt. George Seranko was quoted as saying that the first photograph was "a self portrait taken of a juvenile female taking pictures of her body, nude."

The school district issued a statement Tuesday saying that the investigation turned up "no evidence of inappropriate activity on school grounds ... other than the violation of the electronic devices policy." The statement also said that school officials didn't learn of the charges against the students until Monday.

In the WPXI story, which included contributions from the Associated Press, Saranko indicated that authorities decided to file the child pornography charges to send a strong message to other minors who might consider sending such photos to friends.

"It's very dangerous," he said. "Once it's on a cell phone, that cell phone can be put on the Internet where everyone in the world can get access to that juvenile picture. You don't realize what you are doing until it's already done." (Seranko could not be reached for comment on Thursday, and a woman who answered the phone at the Greensburg Police Department said, "Our department is not

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doing any more interviews on the case.”)

But Patrick Artur, a Philadelphia defense attorney who by his reckoning has handled at least 80 child pornography cases, said the prosecution of minors for photos they took themselves runs counter to the purpose of both state and federal child pornography laws: Preventing the sexual abuse of children by “dirty old men in raincoats.”

“It’s clearly overkill,” he said. “... The letter of the law seems to have been violated, but this is not the type of defendant that the legislature envisioned” in passing the statute.

Artur said that because there is no mandatory minimum sentence under Pennsylvania’s child pornography law, unlike the federal statute, the students would not necessarily be incarcerated if they are found guilty. But he noted that convictions would have “serious, serious implications,” including forcing them having to register as sexual offenders for at least 10 years.

While Artur said the prosecution of a juvenile for allegedly creating and distributing child porn was new to him, a quick review of federal and state statistics showed there have been a handful of similar cases, and several convictions.

While few minors have found themselves in court for e-mailing or posting sexy photos of themselves, there is little doubt that ubiquitous cell phones and easy access to computers have tempted many to push the erotic envelope.

The National Campaign to Prevent Teen and Unplanned Pregnancy reported last month that a survey of 1,280 teens and young adults found that 20 percent of the teens said they

had sent or posted nude or semi nude photos or videos of themselves. That number was slightly higher for teenage girls — 22 percent — vs. boys — 18 percent.

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# The Washington Post

## My Students. My Cellphone. My Ordeal.

By Ting-Yi Oei  
Sunday, April 19, 2009; B01

The Channel 4 Newsbreak was meant to shock: "High school assistant principal in Loudoun County arrested for child pornography," announced WRC's Jim Vance. "Details following the Olympics."

That was last Aug. 20. The assistant principal was me. And the story on the late evening news that night was how many people who knew me -- and countless others in the Washington area who didn't -- learned that I was the subject of a prosecution that over the past year has turned my life upside down and ruined my reputation and my career. Although all the charges against me were recently thrown out of court, my experience is a warning for all educators who find themselves trying to negotiate the slippery terrain where rapidly advancing technology intersects with risky adolescent behavior.

My ordeal began in March of last year, when a teacher at my school, Loudoun County's Freedom High, told me about a rumor that students were sending nude pictures of themselves to one another on their cellphones. We've all heard a lot about "sexting" lately, but a year ago the phenomenon was new to me and, I'd venture to say, to most school officials. Because administrators' first concern is our students' safety and well-being, it was my responsibility to look into the matter.

I called a student I thought likely to have such a picture into my office. In the presence of the school's safety and security official, he quickly admitted that he did. He pulled out his phone and showed us an image of the torso of a woman wearing underpants, with her arms crossed over her breasts. Her head was not in the picture. The 17-year-old student claimed not to know who the young woman was or who had sent him the photo.

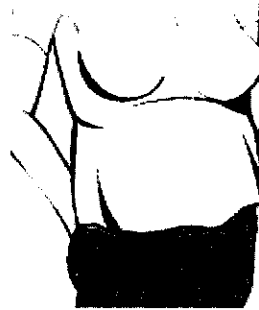
I immediately took the picture to the principal, who instructed me to transfer it to my office computer in case we needed it later. Being unfamiliar with camera features on cellphones, I asked the school's technology resource teacher for help, but he didn't have an immediate solution. The student then said that he could text the picture to my cellphone. That left the problem of getting it to my computer, whereupon the boy said that I could send the picture to my school e-mail address.

In hindsight, of course, he could have sent it directly to my computer himself. But it never occurred to me that my actions could be regarded as suspect: I was conducting a legitimate school investigation with children's welfare in mind, and I did so in the presence and with the full knowledge of other school officials.

I interviewed more students with the security specialist, but we found no more pictures and were unable to identify the woman in the photo. We concluded that she probably wasn't a student at the school. I reported our findings to the principal and assumed that the matter was closed.

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I left the building quickly that day -- the start of spring break -- to join my wife, Diane, at a doctor's office to discuss her upcoming surgery for a potentially malignant tumor. I told her about the sexting photo, but we had other things on our minds. When I returned to school two days after break ended, I confronted a new problem: The boy with the photo on his cell was now in trouble for having pulled a girl's pants down in class (another teen phenomenon known as "flagging"). I informed his mother that I was suspending him, and in the discussion I also told her about the earlier incident. She was outraged that I hadn't reported it to her at the time. She called me at home that night at 10 p.m. and again at 7 a.m. the next morning, agitated and demanding that the suspension be revoked and threatening to involve an attorney. I told her as calmly as I could that the suspension was for the deliberate act of pulling down the girl's pants. A couple of days later, after an appeal hearing with the principal and me, she shouted at me, "I'll see you in court!"

I was concerned about her anger, but I'd dealt with many outraged parents before and knew how emotional they could get when they heard bad news about their children's behavior.

I wasn't worried when a few days later, two sheriff's investigators came to school. They said that they were investigating a parental complaint and asked me whether I knew anything about photos being sent around on cellphones. I told them about our investigation and volunteered to show them the one photo it had turned up. I couldn't find the file where I'd saved it on my computer but then remembered that it was still on my cell. Good thing I'd kept it there, I thought at the time. I didn't know how to retrieve it (I'd never used the photo functions), so I handed the phone to one of the investigators. They didn't tell me that I was under investigation, nor did they confiscate my cell.

The police later learned the identity of the students involved in the sexting, although they never told me that directly. The person in the photo, who turned out to be a 16-year-old at Freedom, later apologized for having lied to me, and the father of the boy who took the picture called to apologize as well.

Then, a full month later, in May, I was charged with "failure to report suspected child abuse." I was stunned. I swiftly contacted the Loudoun Education Association, told them everything, and got a lawyer. A few hours later the school system placed me on paid administrative leave.

I took some comfort in the fact that the charge appeared baseless: Who would have thought that photo constituted child abuse? Virginia law and school policy require that certain offenses -- having drugs or weapons on school grounds, physical violence that causes injuries, bomb threats -- be reported to law enforcement. But this incident didn't fit into any of those categories. Nor could I see how peers taking consensual photos of each other would constitute child abuse, especially since we hadn't even been able to determine that there were minors involved. Moreover, even if the sexting could somehow have been considered child abuse, I'd done what I was supposed to do by law, which was to tell "the person in charge of the institution," i.e., my principal, about it.

In the summer, I got word that Commonwealth's Attorney James Plowman was dropping the "failure to report" charge. But then he reneged and threatened that if I didn't resign, I would face child pornography charges. Still, no indictment came in July, the "failure to report" charge was dismissed, and I went back to work.

I heard a rumor three weeks later that I'd been indicted. I contacted my lawyer, who left messages with prosecutors and said that if it was true, I wanted to turn myself in. Diane, concerned when we heard nothing back after two days, developed chest pains and shortness of breath, and I rushed her to the emergency room on the night of Aug. 19. She was still in the hospital after a night of observation when I phoned her the following morning with the devastating news that I was under arrest.

Aug. 20 was the first day for teachers to report back to school. An hour into the morning, the school's police officer called me out of a meeting. In my office, he told me that he had to arrest me. I was unnerved and started trembling so badly that I couldn't button my shirtsleeves. After letting me call Diane, the officer led me out to his police car, handcuffed me and drove me to the county jail. Several hours later, I was released on my own recognizance.

How had this happened to me? The same day, The Washington Post ran [a story online](#), accompanied by a huge mug shot of me. Within a few hours, the Web site [BadBadTeacher.com](#) had also posted a photo and article. The next morning, after breakfast, a local Fox News reporter showed up at our door with an accompanying sound truck. Microphone in hand, she knocked and asked me to talk. Shaken, I closed the door. The witch hunt was on in full force.

I was furious that the sheriff's department, by its own admission, had never even investigated the original incident. No one interviewed the principal until after my lawyer demanded that they do so. They'd simply taken the word of a disgruntled parent. Deputy Commonwealth's Attorney Nicole Wittmann also admitted publicly that there was no new information relating to the pornography charge. "We just feel very strongly that this is not someone who should be in the Loudoun County school system," she said, a sentiment she repeated in the final court hearing.

Anger wasn't my only emotion. The anxiety and sleeplessness I'd felt after the first charge worsened. So did the sense of isolation. For two years, I'd shared my cancer experiences with a colleague as he suffered from the disease. I was crushed when he told me later that he'd asked twice about contacting me but had been discouraged from doing so. But Diane kept me going, along with friends, family and my Quaker community. People I hadn't heard from in years offered support.

Yet I also encountered doubt and skepticism. A friend of decades inquired whether there was something I wasn't telling him. Another told me how years before, he'd unquestioningly supported a colleague facing a similar charge, only to find that his trust had been betrayed. "You wouldn't do that to me again, would you?" was the unspoken question. Still, once reassured, both stuck with me, attending hearing after hearing.

Although I felt pressure along the way to cave and accept a deal, I absolutely refused to do it. My resolve only strengthened after the prosecutor's office upped the ante with two additional misdemeanor charges.

On March 31, I was on the road with my wife when my lawyer called. I pulled, appropriately enough, into a church parking lot to hear the news: A judge had dismissed all the charges. All I could think was, "Hallelujah!"

And so my legal ordeal is done, but I still ask myself: Did anyone benefit from all this? I have to put the pieces of my life and career back together. My wife and I were terrorized by a baseless prosecution, lost all our savings and were forced to borrow huge sums of money to pay for my defense. The students involved probably could have put this ill-advised sexting adventure behind them a long time ago. Instead, they had to wonder for months whether they'd have to testify in court and bring attention to themselves and their families. And a meaningful discussion about sexting and what schools, parents, the community and law enforcement can do about it has been sidetracked for more than a year by a prosecutor who should never have brought charges in the first place.

Looking back, I'm not surprised by the students' behavior. But I struggle to understand how my actions in performing my job could have been so badly misconstrued. It also disturbs me that, in our legal system, the truth can apparently get in the way of "justice." I can no longer look at the power of

prosecutors and our justice system the way I once did.

As for moving forward, that's easier said than done. I remember myself four years ago, when I helped open Freedom High School, and I think about all that I've missed over the past year. I missed last year's graduation. I missed watching our girls' basketball team win the state championship. I missed the camaraderie of colleagues. I missed doing the job I love -- working with young people and watching them grow.

This June, the first class to go through all four years at Freedom will graduate. I hope to be there with the students as their assistant principal. But it will be a bittersweet event.

*Ting-Yi Oei* has been a Northern Virginia teacher and school administrator for more than 30 years.

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