

## Case 11

### Mean Girls

Just where is the line between the personal and the professional when it comes to the educational profession? Back in the days of single room schoolhouses, school marms were often subject to oppressive rules of conduct, one amusingly stating, “Women teachers who marry or engage in unseemly conduct will be dismissed.”<sup>1</sup> Over the past century and a half, however, female teachers seem to be afforded much greater freedom outside the classroom. This stems in part from the greater degree of anonymity teachers enjoy when they live in more populated communities. The women’s liberation movement and other philosophical movements have also fought for greater acceptance of women’s and teachers’ freedoms of speech and association and their autonomy as professionals.<sup>2</sup>

Present-day teachers are given much greater freedoms to behave as they choose outside the classroom; however, schools still regularly have codes of conduct for their employees.<sup>3</sup> In the burgeoning age of social media, the boundaries of these rules are being tested. For instance, in one case, New York elementary school teacher Christine Rubino posted the following Facebook status: “After today, I am thinking the beach sounds like a wonderful idea for my 5th graders! I HATE THEIR GUTS! They are the devils (sic) spawn!”<sup>4</sup> This statement was made after school hours the day after a student drowned while on a field trip to the beach. While Rubino took down the comment just days later, she was fired from her job, and only got her job back after a court ruled that the comments were not sufficient grounds for dismissal.<sup>5</sup>

While generally much less strict, students may also be subject to limitations on their speech.<sup>6</sup> However, this is not always the case. Sometimes teachers find themselves the subject of their students’ criticism, struggling with how to cope with the freedom of speech of “cyber bullies”. One Land O’Lakes (Florida) High School teacher, Angelica Cruikshank, recently made headlines when she was terminated for her actions relating to “policing” students’ Facebook

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<sup>1</sup> “School Rules—1872,” *New Hampshire Historical Society*, <http://www.nhhistory.org/edu/support/nhgrowngup/teacherrules.pdf>.

<sup>2</sup> Kenneth A. Strike, “Professionalism, Democracy, and Discursive Communities: Normative Reflections on Restructuring,” *American Educational Research Journal*, Summer 1993, Vol. 30, No. 2, p. 255-275, <http://www.politicalscience.uncc.edu/godwink/PPOL8687/WK14%20April%2026%20School%20Organization/Strike%20Normative%20issues%20decentralization.pdf>.

<sup>3</sup> See Helen Norton, “Constraining Public Employee Speech: Government’s Control of Its Workers’ Speech To Protect Its Own Expression,” *Duke Law Journal*, Oct. 2009, Vol. 59, No. 1, <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1435&context=dlj> (discussing how teachers are often still subject to strict off-duty behavior rules)

<sup>4</sup> Evan Brown, “Teacher fired over Facebook post gets her job back,” *internetcases: Law & Technology* (blog), Feb. 9, 2012, <http://blog.internetcases.com/2012/02/09/facebook-privacy-employment-termination-contextual-integrity/>.

<sup>5</sup> Anson N. Carter, “The impact various forms of Freedom of Speech has on students and administrators in an Educational Setting,” March 21, 2012, <http://openlab.citytech.cuny.edu/wp-content/uploads/group-documents/456/1337350104-LegalSeminarFinalDraft.docx>.

<sup>6</sup> See Chris Boots, “Student questions regulations after Facebook censorship,” *The Chicago Maroon*, Feb. 3, 2009, <http://chicagomaroon.com/2009/02/03/student-questions-regulations-after-facebook-censorship/> (discussing student who posted Facebook page about his ex-girlfriend who allegedly cheated on him but was asked to take it down by university officials, citing the student code of conduct).

comments.<sup>7</sup> In particular, Cruikshank demanded one student log into her Facebook account on Cruikshank's cell phone. Cruikshank did so to gain access to other students' Facebook comments about her. She also enlisted some students to review their classmates Facebook pages for derogatory comments, and refused to provide permissions slips for a museum fieldtrip to her Facebook bullies. Parents were outraged at Cruikshank's actions, and it is unknown at this time whether Cruikshank's termination was final or if she was reinstated.

Though Cruikshank's actions were clearly extreme, she was likely subject to codes of conduct that would have subjected her to punishment for making the very sorts of comments that she had to endure. It is not clear she had any way to address the criticisms of her student cyberbullies.

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<sup>7</sup>Jeffrey S. Solochek, "Pasco Teacher Accused of Policing Students' Facebook Comments," *Tampa Bay Times*, March 22, 2012, <http://www.tampabay.com/news/education/k12/article1221093.ece>; "Spanish teacher suspended after she 'forced students to show her their Facebook pages - and banned them from school trip if they insulted her,'" *The Daily Mail*, March 21, 2012, <http://www.dailymail.co.uk/news/article-2118399/Teacher-Angelica-Cruikshank-banned-students-school-trip-badmoutherd-Facebook.html>.