

The Student-Teacher Bond: How Close Is Too Close?

By Dianna Bowen (Dallas)

A recent court ruling in Texas shines a spotlight on the student-teacher boundary issues in schools. Recent headlines involving instances of teachers having allegedly inappropriate relationships with students always take our breath away, although for the most part, schools were rarely seen as a responsible party for these actions. But those days may be over as a result of a landmark verdict against the Episcopal School of Dallas (ESD) in a lawsuit brought by a student and her parents. *John and Jane Doe v. Episcopal School of Dallas*.

Background

Following nine weeks of testimony, ESD now has a huge legal liability looming over its head for the way it handled a sexual relationship involving a 34-year old teacher and a 16-year old student. The parents of the student claimed administrators failed to protect their daughter from the relationship and then forced her to withdraw from school. The school explained that after the relationship came to light and the teacher resigned, it was in the best interest of the student to withdraw from the school due to the growing gossip mill which had overtaken the school.

While the school was not held accountable for failing to prevent the relationship, the jury did find the school 90% responsible for the student's withdrawal from the school and awarded more than \$5 million¹ for anguish, pain and suffering, and loss of enjoyment of life due to the fraud and breach of trust by the school.

While the ESD case is still being dissected in the courtroom, there are several lessons that schools can learn from this case that will help prevent them from landing in the courtroom.

How Personal Is "Too Personal"?

Increasingly, schools are encouraging students and faculty members to forge close personal bonds. All of us remember a teacher or coach who contributed to our personal development, and perhaps some of us keep in touch with those individuals years after leaving school. It is well established that teachers have the potential to serve as the very best mentors and role models to students, even years after graduation.

Students benefit from these kinds of relationships, not just academically, but also emotionally. But, as you can see in the ESD verdict, close student-faculty relationships pose difficulties for schools when the boundaries of relationships are not well-defined and when those boundaries are crossed. The risks of close student-faculty relationships are the increased potential for claims by students or their parents, the difficulty of establishing and maintaining authority, and the confusion about the faculty member's role in the student's life. These claims have increased in recent years and the trend is likely to continue.

Setting The Boundaries

To minimize the potential for inappropriate conduct while still encouraging close relationships between students and faculty, a school should provide clear guidelines to its faculty. Remind faculty that their

failure to initially establish a professional relationship and set clear boundaries for their students will cost them the respect of their colleagues, parents, administrators, and the students themselves. Don't assume that teachers or students will intuitively understand this.

Faculty should be aware that, ultimately, they are authority-figures – not friends – to students. Furthermore, a school should emphasize that the faculty members are representatives of the school both onsite and offsite. Even though they can be open with students, faculty should be expected to establish clear boundaries for the relationship, not the other way around.

To decrease the risk of teachers crossing the line with students, schools should implement a comprehensive written policy in both its student and employee handbooks that prohibits inappropriate conduct and unprofessional interaction between students and teachers in all settings. Schools should discuss the guidelines for communications by students and adults on social media, via email, text messaging, or cell phones, personal conversations about non-academic matters, and other day-to-day interactions that have over time been allowed to develop without clear school guidelines.

The Importance Of Reporting

Finally, schools must establish and enforce a clear reporting process relating to problematic interactions with students. If faculty members become aware of inappropriate behavior toward a student by either a colleague or another student, they must report the situation to the appropriate administrator, who should immediately address it. The school should identify a specific person or persons to whom such reports should be made.

Clearly communicate that it is not appropriate for faculty members to conduct their own investigations into the situation. Faculty members should not try to "work out" the situation by themselves if they are the ones involved with the problematic student interaction.

Above all, no faculty member should simply keep quiet about a troubling faculty member-student interaction. Train faculty members to report any situation that seems out of the ordinary so that the administration can investigate and resolve the situation for the protection of the student, the faculty member, and the school.

Most importantly, teachers and school administrators must realize they have been entrusted with a significant responsibility to their students. After the verdict against ESD, it appears that schools may be liable for the inappropriate actions of teachers *and* the manner in which the administrators react to the incident. Such actions can have repercussions that reach far beyond the classroom when the final school bell rings.

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¹ Some reports place the amount significantly higher, but the court documents are sealed.

Political Activities By Non-Profit Educational Institutions

By Alice Wang (San Francisco)

The 2012 election season is upon us. There will be hotly-debated contests throughout the nation, culminating in national and local contests this fall.

Each political cycle, schools face questions regarding their obligations (and limitations) when it comes to involvement by the school in various political activities. For example, can your school permit a student club to host one party's candidate on campus? Must you open the opportunity to other candidates? It is extremely important that you understand the IRS guidelines relating to a non-profit's political limitations so that you do not place the school's tax-exempt status in jeopardy.

Under the Internal Revenue Code, all section 501(c)(3) organizations (also known as non-profit organizations) receive exceptional tax treatment under federal law because they are tax exempt and contributions to them are tax deductible. But the trade-off for this preferential tax treatment is a limitation on certain political activities.

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What Are The Limitations?

Non-profit organizations are prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributing to political campaigns or public statements – verbal or written – made on behalf of the non-profit organization in favor of or in opposition to any candidate for public office, violates the prohibition against political campaign activity. Simply put, non-profit organizations are forbidden from engaging in any political campaigning activity; violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.

Concrete examples of prohibited activities include voter education, registration activities, or any political activity with the *appearance of bias*, such as 1) favoring one candidate over another; 2) opposing a candidate in some manner; or 3) having the effect of favoring a candidate or group of candidates. All these will constitute prohibited participation or intervention.

Moreover, contributing to political campaign funds, sponsoring events to advance the candidacy of a particular candidate or party, expressly or impliedly endorsing a candidate for public office (or for the nomination of a particular party), or commenting on specific actions, statements, or positions taken by candidates (including incumbents) are all prohibited.

Using institutional resources to support a particular candidate – such as reimbursing individuals for political donations, providing lists, use of office space, phones, or other institutional resources to support a candidate, campaign, political party or political action committee – are clearly prohibited.

Promoting or even commenting on issues that are identified as dividing lines between candidates or parties is a slippery slope given that it can be interpreted to imply bias and partisan views by the educational institution.

What Activities Are Safe?

Even though there are many specific limitations, certain activities or expenditures are lawful depending on the facts and circumstances. For example, certain voter-education activities (including presenting public forums and publishing voter education guides) conducted in a *non-partisan manner* do not constitute prohibited political campaign activity. Other activities intended to encourage people to participate in the electoral process, such as voter registration, get-out-to-vote drives, or circulating unbiased questions or public-opinion polls, would not be prohibited if conducted in a non-partisan manner.

Conducting institution-sponsored public forums is not prohibited if all legally qualified candidates for a public office (or for the nomination of a particular party) are invited and given equal access and opportunity to speak, and if the format and content of the forum are presented in a neutral manner. If a non-profit educational institution chooses to invite candidates to speak, take steps to ensure that an invitation is extended to all qualified candidates and that no candidate is favored in relation to the activity.

In a situation such as that, ensure that separate speaking opportunities are equal in nature (i.e., both have the same likelihood of a large or small audience). The school should also communicate clearly that the speaker's attendance does not reflect that the school supports or opposes any particular candidate, and should prohibit fundraising at the event. Ensure that the event is not conducted as a rally or other campaign-like event.

The fine line between what is prohibited and what is within legal limits is one that must be respected. The key is to be non-partisan and provide equal opportunity to obtain information and participation.

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