

CLIENT NEWS BRIEF

Teacher's Blog Maligning Students Is Not "Protected Speech" Under the First Amendment

In *Munroe v. Central Bucks School District* (E.D. Pa. 2014) 34 F. Supp. 3d 532, 538, the Third Circuit Court of Appeals held that a teacher's blog disparaging students was not "protected speech" under the First Amendment of the United States Constitution. Although not binding precedent in California, the decision provides guidance in evaluating what First Amendment protections should be afforded to employees' speech, if any.

Natalie Munroe, a former employee of Central Bucks School District (District) filed a First Amendment retaliation action against the District, the District's Superintendent, and her school principal. Ms. Munroe claimed she was fired because of a blog she authored.

Ms. Munroe's blog included a post in which she proposed comments that should be added to student report cards, such as "seems smarter than she actually is," "a complete and utter jerk," "dresses like a streetwalker," and "liar and cheater." Upon discovering the blog post, the District immediately suspended Ms. Munroe. Parents and students were furious about the posts and over 200 parents complained they did not want Ms. Munroe teaching their children. To allay parent concerns, the District hired another teacher to shadow Ms. Munroe. The District subsequently terminated Ms. Munroe because of the blog posts. Ms. Munroe filed a lawsuit challenging her termination.

To determine whether Ms. Munroe's blog post was protected speech under the First Amendment, the Third Circuit Court of Appeals applied the United States Supreme Court's balancing test for public employee speech set forth in *Pickering v. Board of Education* (1968) 391 U.S. 563. *Pickering* requires the courts to "balance the interests of the employee as a citizen, in commenting on matters of public concern and the interest of the employer in promoting efficiency of employees." This *Pickering* balancing test is fact-intensive. Courts typically consider whether the speech impairs discipline or employee harmony, has a detrimental impact on close working relationships, impedes the performance of the speaker's duties, or interferes with regular operations.

The Court of Appeals found the blog addressed matters of public concern because Ms. Munroe had proposed suggestions for teacher evaluations of students and the grading process. However, the court found that the blog was not protected speech because the District's interest in promoting efficiency and avoiding workplace disruption outweighed Ms. Munroe's free speech interests. In determining that the blog was not protected speech, the court considered the breakdown in the student-teacher relationship and the District's need to hire a new teacher to address parent concerns.

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As Munroe demonstrates, when determining whether to discipline an employee, it is important to consider the extent to which an employee's speech negatively impacts working relationships, impairs the performance of the employee's duties, and causes disruption in evaluating discipline based on employee speech.

For additional information regarding the Munroe decision or generally, school employee's First Amendment rights, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).

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