Court Finds Computer Use Policy May Violate First Amendment

BY ROBERT G. YOUNG • OCTOBER 28, 2017

The United States District Court for the Northern District of Illinois recently decided that a university's Computer Usage Policy may violate professors' First Amendment right to free speech. Objecting to a faculty-created blog that was often critical of university administration, Chicago State University sent a cease-and-desist letter to a faculty member, claiming that the blog lacked the "civility" and "professionalism" that the university expected of its faculty. The faculty member interpreted that letter as an attempt to invoke the university's Computer Usage Policy, which prohibited "any communication which tends to embarrass or humiliate any member of the community." The faculty member challenged that policy on First Amendment grounds, arguing that, on its face, the policy infringed on their free speech rights.

The Court agreed with the faculty member, at least at the summary judgment stage of the case. The Court noted that the language of the Computer Usage Policy was similar to other language in university speech codes that other courts had struck down. The university argued that its technology resources were a "non-public forum," which would grant wider leeway for speech restrictions. The Court, however, found that the university had not made an adequate evidentiary showing that its technology resources were a "non-public forum" and ruled that a jury would ultimately have to decide the issue.

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