

Welcome Warriors: Digital Citizenship at the College Level

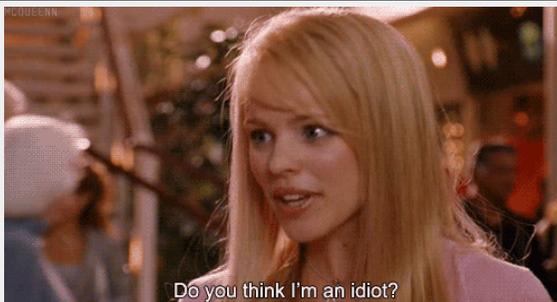
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Digital Citizenship

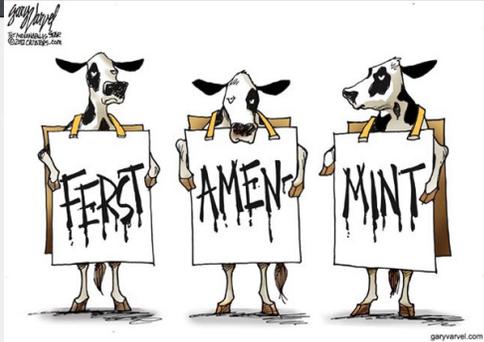


What's the Deal?

- First Amendment Rights
- Threatening Speech
- Sexting and
- Internet Safety



First Amendment



Doe v. Syracuse Univ. (NY 2019)

- Students in professional engineering fraternity, at private event at the frat house
- "Roast" recorded and posted on the fraternity's Facebook page

Doe v. Syracuse Univ. (NY 2019)



**Doe v. Syracuse Univ.
(NY 2019)**

- 18 students dismissed from the university, fraternity disbanded
- Sued, claiming First Amendment violations
 - "A university may regulate student speech on Facebook that violates established professional conduct standards...with the qualification that any restrictions on a student's Facebook posts must be narrowly tailored and directly related to established professional conduct standards."

Stacey the Drunken Pirate

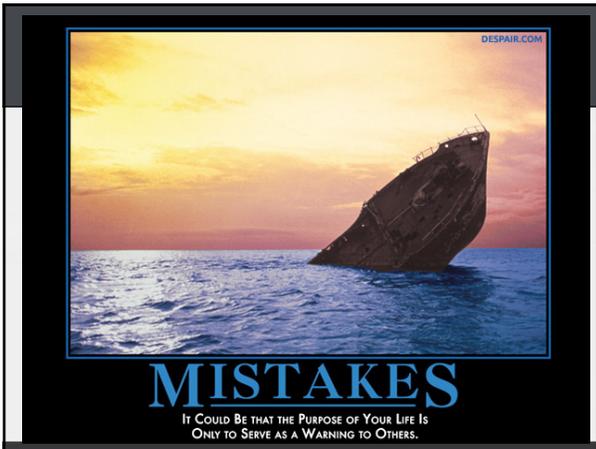


**Snyder v. Millersville Univ.
(D. Ct. Penn. 2008)**

- Student teacher urged students to visit her MySpace Page
 - comments criticizing her supervisor
 - photograph of her wearing a pirate hat and drinking from a plastic cup with the caption "drunken pirate"
- School refused to let her complete student teaching; couldn't graduate without student-teaching practicum

Snyder v. Millersville Univ.
(D. Ct. Penn. 2008)

- First tried to sue school, case dismissed
- Then sued university claiming violation of First Amendment
- Court: No protection because postings dealt only with purely personal matters, not issues of public concern



Corlett v. Oakland Univ.,
(Mich. 2013)

- Plaintiff a freshman in creative writing
- Had to keep a writing journal
 - described various teachers to whom he has felt sexually attracted in the past
 - About the professor
 - “She walks in and I say to myself “Drop, motherf*cker, drop.”
 - “Kee-Rist, I’ll never learn a thing. Tall, blond, stacked, skirt, heels, fingernails, smart, articulate, smile. I’m toast but I stay”
 - “Re-reading what I’ve previously written while drinking, its not as bad as I thought”

**Corlett v. Oakland Univ.,
(Mich. 2013)**

- On November 1, professor collected journals and read them for the first time
- On November 2, Dean of students called student into his office; told him not to go back to English class for the remainder of the week.
- Following week when student walked into class, professor called campus police who escorted him from the classroom

**Corlett v. Oakland Univ.,
(Mich. 2013)**

- Sued, claiming First Amendment protection in journal
- The Court:
 - "Plaintiff's expressions of lust for [the professor] or descriptions of her physical appearance are not entitled to First Amendment protection."
 - The writing "satisfied the legal definition of obscenity" and "sexual harassment"

**Corlett v. Oakland Univ.,
(Mich. 2013)**

"Perhaps some would view Defendants' punishment as disproportionate to Plaintiff's conduct. Perhaps, however, Defendants believed the sanctions were necessary to emphasize to Plaintiff that, although arguably acceptable in a karaoke bar, certain behaviors when directed at female professors, fellow students, or future co-workers are not tolerable in a civilized society."

Key v. Robertson (E.D. Va. 2009)

- Law student at Regent Univ. posted image of Pat Robertson giving the middle finger
- Student ordered to remove and apologize
- Sued, claiming First Amendment Protection
- Court: No First Amendment rights against private university



Threatening Speech

- Neb. Rev. Stat. 28-311.01
- Terroristic Threats: "threatens to commit any crime of violence ...
 - With the intent to terrorize another
 - In reckless disregard of the risk of causing such terror
- Class IV Felony punishable by:
 - Up to 5 years in prison and/or
 - \$10,000 fine

A West Virginia University student has been arrested and charged for making terroristic threats

Detective concerned University of Kentucky threat suspect could be flight risk

WATCH UK Student now faces federal charges for threats

WATCH UK student arrested for making false threats

LOCAL WOMAN CHAR

By WVTF News Staff | Posted: Tue 4:30 PM, Nov 05, 2018

Tyler Clementi



- Rutgers University
- Roommate: Dharun Ravi
 - Used a webcam to view a private romantic encounter between Clementi and "M.B."
 - In the second incident, Ravi urged friends and Twitter followers to watch via his webcam a second tryst
 - Clementi took his own life

New Jersey v. Dharun Ravi (NJ 2012)

- Charged with invasion of privacy, witness tampering and bias intimidation
- Sentenced to
 - 30 days in jail
 - 3 years probation
 - 300 hours of community
 - \$10,000 fine
 - Counseling on cyberbullying and alternate lifestyles



Snapchat post lands woman in jail



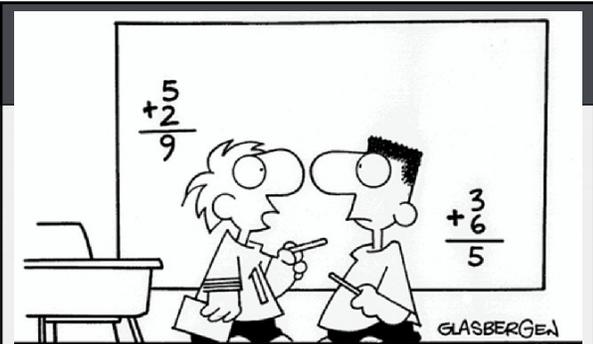
Madison Carlson

BUY NOW



A woman is in jail after allegedly posting on social media that she had marijuana for sale.

Authorities were advised of a video on Madison D. Carlson's Snapchat application showing a large baggie filled with a green substance with a caption saying "hit me up."



"My lawyer says I can sue the school because they're violating my right to be stupid."

Students and Sexting



Revenge Porn

Publication of explicit material without the consent of the person depicted in the content, and with the intent to cause them distress

Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act (Neb. Rev. Stat. §§ 25-3501 to 25-3508.)

- New Nebraska law allows for civil lawsuits when a private intimate image is shared
- Allows for actual damages and emotional distress
- If the actual damages are difficult to quantify, presumed damages of up to \$10,000 against each defendant.
- Allows for
 - attorney's fees
 - costs
 - injunctive relief

Taylor v. Francko (Hawaii 2016)

- William Francko proposed to Leona Taylor
- She refused
- He posted nude photos of her online, along with her contact information
- Sued for public disclosure of private facts, defamation of character, and infliction of emotional distress.
- Court entered judgment against Francko and awarded Taylor \$425,000 in damages

Title IX of the Education Amendments of 1972

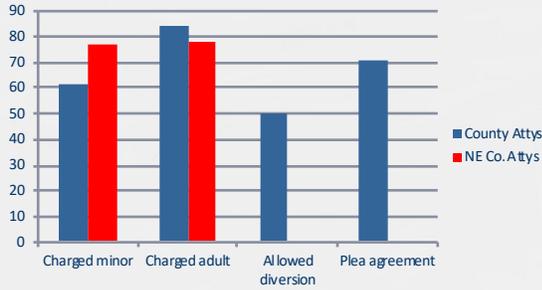
- "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

Sexting and Title IX

- **Doe v. Town of Stoughton (2013)**
 - "Certain statements made by administrators could lead a jury to infer that school actors either intentionally or unintentionally minimized the severity of the issue. Other statements made to Plaintiff and her mother could allow a jury to conclude that school administrators grew impatient or even exasperated with the constant reports of harassment."



Nebraska's Sexting Laws: The Harsh Reality



Nudes of Minors are Illegal for ANYONE to Create or Distribute

- NEB. REV. STAT. 28-1463.01-.06 (Creation)
 - (1) It shall be unlawful for a person to knowingly **make, publish, direct, create**, provide, or in any manner generate any visual depiction of sexually explicit conduct which has a child other than the defendant as one of its participants or portrayed observers.
 - (2) It shall be unlawful for a person knowingly to purchase, rent, sell, deliver, **distribute**, display for sale, advertise, trade, or provide to any person any visual depiction of sexually explicit conduct which has a child other than the defendant as one of its participants or portrayed observers.
 - (No affirmative defenses...)

Nudes of Minors are Illegal for ANYONE to Possess

- NEB. REV. STAT. 28-813.01 (Obscenity)
 - It shall be unlawful for a person **under nineteen years of age** to **knowingly and intentionally possess any visual depiction** of sexually explicit conduct which has a child other than the defendant as one of its participants or portrayed observers. Violation of this subsection is a **Class I misdemeanor**. A second or subsequent conviction under this subsection is a **Class IV felony**.
 - 2 possible defenses for **voluntary sharing**— 15 to 18, or within 4 years in age if 17 or younger

It is Illegal to Share Nudes of ANYONE without their Consent

▪NEB. REV. STAT. 28-311.08 (Intrusion)

(4) It shall be unlawful for any person to **knowingly and intentionally distribute or otherwise make public an image or video of another person's intimate area** or of another person engaged in sexually explicit conduct (a) if the other person had a reasonable expectation that the image would remain private, (b) knowing the other person did not consent to distributing or making public the image or video, and (c) if distributing or making public the image or video serves no legitimate purpose. Violation of this subsection is a Class I misdemeanor. A second or subsequent violation of this subsection is a Class IV felony.

- "Intimate area" means "the naked or undergarment-clad genitalia, pubic area, buttocks, or female breast of an individual"

It is illegal to THREATEN to share a Nude (of anyone)

▪NEB. REV. STAT. 28-311.08 (Intrusion)

(5) It shall be unlawful for any person **to threaten to distribute** or otherwise make public an image or video of another person's intimate area or of another person engaged in sexually explicit conduct with the intent to intimidate, threaten, or harass any person. Violation of this subsection is a Class I misdemeanor.

- (No affirmative defenses...)

It is Illegal to ask a Minor to take or send a Nudes

▪28-707 (Child Abuse)

▪A **person** commits child abuse if he or she knowingly, intentionally, or negligently **causes or permits a minor child to be...**

- "Placed in a situation to be sexually exploited by allowing [or] encouraging such minor child to ... engage in ... pornographic photography, films, or depictions"

▪28-711: "any school employee" **must report child abuse**

State v. Simms

- 17 year old sent nude to girlfriend
- Two felony counts of manufacturing and possessing child pornography
- Search warrant
- Pled guilty
 - Probation
 - Sex offender



FOOTBALL

Husker RB Maurice Washington faces child porn charges in California after sending video of ex-girlfriend

By Sam McKewon / World-Herald staff writer 6 hrs ago



UNL Sextortion Case

- 3 different males stripped during video chats with female attending UNL
- Contacted boys after chats saying she had recordings
- Told boys she would post them on Facebook and Instagram unless they sent money to an account in the Philippines:
 - Male 1: \$1,500 sent
 - Male 2: \$1,018 sent
 - Male 3: \$500 sent

Questions?

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