



Did You Know?...

As part of our commitment to proactive lawyering, we offer training to managers and client personnel about labor and employment law issues and school law developments that impact their work.

Our attorneys have offered workshops in areas such as: conducting disciplinary investigations; workplace violence; sexual harassment; ADA compliance; affirmative action; student discipline; wage and hour laws; special education related topics; bullying; and conducting performance evaluations.



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U.S. District Court Rules That School Committee Violated Teacher’s First Amendment Right To Free Speech

In Meagher v. Andover School Committee, et al., Civil Action No. 13-11307-JGD (2015), a U.S. District Court judge ruled that the Andover School Department, and the Andover School Committee violated the First Amendment rights of a teacher by terminating her employment in retaliation for protected speech. In 2012, while the union and the school committee were in contentious negotiations, the superintendent fired Meagher, a teacher who also served as union vice president, for sending an email to her fellow teachers urging them to abstain from voting on reports required for accreditation, as a means of putting the accreditation process on hold and using it to gain leverage in negotiations.

In 2013, the union filed a charge before the Department of Labor Relations (DLR) alleging that the teacher’s email constituted protected, concerted activity. The DLR

agreed, holding that the school committee discriminated against the teacher for her union activity and ordered the teacher reinstated with back pay.

In this action, the teacher sued the Andover School Department, the Andover School Committee, and the superintendent in her individual capacity, alleging that the decision to terminate her for writing the email to her colleagues constituted unlawful retaliation for, and otherwise interfered with, the exercise of her First Amendment right to engage in free speech. The Court agreed to the extent that these claims were asserted against the school department and the school committee, but dismissed all claims against the superintendent, ruling that she was immune from liability in her individual capacity under the doctrine of qualified immunity. Before terminating or otherwise disciplining an employee for any issues related to speech, consult your CLP attorney.

Supreme Court Unveils New Burden Of Proof For Religious Discrimination Claims

On June 1, 2015, the U.S. Supreme Court decided EEOC v. Abercrombie & Fitch Stores, Inc., and held, 8-1, that Title VII prohibits employers from refusing to hire an applicant in order to avoid accommodating a religious practice that could be accommodated without undue hardship.

The case was brought by Ms. Samantha Elauf, a Muslim who wore a headscarf for religious reasons, and who alleged that Abercrombie did not hire her because she would need an accommodation from the employer’s “Look Policy,” or dress code. Though she never requested an accommodation from Abercrombie, she wore her headscarf to her job interview. Abercrombie argued that an applicant cannot show disparate treatment without first showing that the employer had “actual knowledge” of the applicant’s need for accommodation. The Court rejected this theory, reasoning that Title VII does not impose a knowledge requirement. Instead, to bring a claim of religious discrimination, an applicant need only be able to show that his or her need for accommodation was a *motivating factor* in the employer’s decision.