

Electronic Reserves

WELCOME TO THE ELECTRONIC RESERVES COURSE READINGS

WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be used for any purpose other than private study, scholarship or research. If electronic transmission of reserve material is used for purposes in excess of what constitutes "fair use" that user may be liable for copyright infringement.

No Further Transmission or distribution of this material is permitted

TITLE: September 1999: Legal Issues – Behavior and Lifestyles

AUTHOR: Mary Angela Shaughnessy, SCN, J.D., PhD

SOURCE: *NCEA Notes v 36:2*

PUBLISHER:

YEAR:

PAGES: 73-74

SEPTEMBER 1999

LEGAL ISSUES: BEHAVIOR AND LIFESTYLES



Certain legal issues can dominate discussion in various professions. Such is the case with Catholic education. While traveling the country on the lecture circuit for several months, I have witnessed a marked increase in the number of inquiries on administrators', teachers', and other staff members' behavior and lifestyle.

The following is one question that has been put to the writer: "Should I be suspicious because two men [or women] are sharing a house or an apartment? You can never be too careful these days." While administrators must be vigilant, suspicions based on the fact that two people of the same sex live together are generally without merit. Much more definitive evidence is needed before any investigation or action should be taken. When should such a living situation be viewed as problematic? Only when the employee admits to an improper relationship that is going to come out or when the employee gives some sort of public witness to the status of the relationship. Behaviors such as wearing matching wedding bands, frequenting gay bars, and referring to the other as "my spouse" or "significant other" are problematic. Even in such a circumstance, the administrator is well advised to proceed slowly and cautiously.

Administrators can make statements in nonthreatening ways: "A few of the parents mentioned that they saw you and your housemate holding hands in the park. I thought you might want to know." Such a communication signals that the administrator is aware and watching. The staff member is, in effect, put on notice, and it is up to him or her to determine whether to deny the allegation, end the relationship, be more discreet, or leave the church employment situation.

Some prominent commentators have suggested that students are better served when teachers whose lifestyles are questioned are removed from the school or program. While no good Catholic administrator would wish to send a message that it is all right for teachers to do something that children are being taught not to do, there are clear imperatives in the Gospel: "Judge not, that ye be not judged. For the measure you measure with, will be measured back to you." Compassion, as well as justice, should always be an important concern. However, rumors are not facts, and all must guard against accepting them as such. Anyone who has ever played the game "Gossip" knows what happens

when information is passed among several individuals; the result may be far different than the truth.

I have also been asked this question: "What should I do if I know that one of my teachers is living with her or his boyfriend or girlfriend? Can I just assume that they are in an immoral relationship?" One of the cardinal rules of administration is to "assume nothing." Rather than judge a relationship, the administrator could ask the individual to put his or her relationship in the context of propriety. All who hold positions of authority, as well as all Catholics, should avoid even the appearance of impropriety.

Once impropriety is surmised, other conclusions can be reached and the individual may be judged without any opportunity to be heard.

What's the bottom line for the administrator? The administrator must keep responsibility for the ministry of education and those who serve in it clearly in mind. The school or other entity exists for the young people, not for adult employment. Decisions must be made with the good of the students uppermost.

Can people who teach in Catholic education be required to adhere to a higher standard than those in public institutions? The answer is a definitive "yes." Catholic educators are supposed to be role models for the young people they serve. Several court decisions indicate that even non-Catholic teachers can be dismissed for conduct not acceptable to the Catholic Church, even if the conduct would be permitted in the teacher's own church.

The types of behaviors that can be problematic are numerous. One common question is what to do when an unmarried teacher becomes pregnant with no plans to marry. This is no easy question. One can certainly argue that the woman has failed as a role model, while others can argue that she will be a good example to her students of what not to do and of the importance of accepting responsibility for one's actions. This type of situation poses an ethical dilemma. Two reasonable persons can reach opposite conclusions. Sometimes the answer to "What does the law permit me to do?" is different than the answer to "What should I do?"

As disciples of Jesus Christ, all people with administrative responsibilities should ask, "What would Jesus do?" The answer to this question should aid administrators in making appropriate personnel decisions on individual lifestyles. 