

Handout 9
Deposition of George Carpenter

Q. Mr. Carpenter, you are a Vice Principal at Ann Arbor High School, is that correct?

A. Yes.

Q. Did you handle the disciplinary action against the Plaintiff, Kenji Davis, on February 20th, 2014?

A. Yes.

Q. Let's turn to that day, the day of the assembly. First, can you tell me a little bit about what type of assembly this was?

A. Well, we hold periodic mandatory assemblies about issues facing the school and the community. Sometimes we use them to educate the students on different programs available to them outside of classes that they may not otherwise know about, and we also use them as an opportunity expose students to careers and other opportunities they might not know a lot about, and to take advantage of the many accomplished people in our community who have a message we think our students would benefit from hearing.

Q. Are the assemblies open to the public?

A. No. Only students and faculty of the school may attend.

Q. Who was at the assembly on February 20th, 2014?

A. The entire student body because it was a mandatory assembly.

Q. Can you describe the format of the assembly on that day?

A. Well, as the students entered the auditorium, the student council members filed into their seats on the stage. The speakers usually wait behind the stage until the Principal introduces them. On that day, Ms. Marquez was the speaker, and she was standing with the Principal backstage while the students were all taking their seats.

Q. So what was the subject of the assembly on this particular day?

A. Ms. Marquez was going to speak about careers in science and engineering and related fields.

Q. Was she also supposed to talk about how to get a job working for a government agency like the NSA?

A. Well, it was certainly something I had discussed with her when we arranged for her to speak. She is a terrific ambassador for the computer sciences, and also for bringing those talents to bear in the service of your government. So that was something I knew she planned to discuss, particularly in the context of her own career, how she ended up working for the NSA, why she found it rewarding.

Q. You mentioned that the student council members sit on the stage. Is that usually the case at assemblies?

A. Yes.

Q. Why do they sit there?

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A. Well, it's a longstanding tradition at our school. I guess it's a chance for them to shine as representatives of their class during a school event.

Q. Did the assembly start and end on time?

A. Yes it did.

Q. Were there any interruptions during the assembly?

A. No, well, not really during the assembly.

Q. What do you mean by that?

A. Well, as Kenji sat down in his seat, there was an unusual buzz in the auditorium. There were hoots and hollers coming from the audience.

Q. That was before the assembly began, is that correct?

A. Yes, the rowdiness was before the Principal addressed the students.

Q. And what do you exactly mean by 'rowdy'?

A. Well, the students were shouting Kenji's name, and shouting different comments, as they all filed into the auditorium.

Q. And did those comments from the crowd continue during the assembly?

A. Everyone pretty much quieted down once the Principal took the podium.

Q. Were you able to decipher what the comments were about?

A. Well, no not at first. I mean, I was at the front of the auditorium, near the stage along with the other vice principals. It took me a second to figure out that the hoots and hollers were directed at the stage. Then, just as the student council members were taking their seats, I saw that Kenji's t-shirt read "The NSA Sucks." Kenji was sitting in the front row. When I realized the noise was directed at Kenji, it was just a few seconds before the Principal began the assembly.

Q. Did the rest of the assembly run as planned?

A. Well, Ms. Marquez spoke and then the students were dismissed, so I guess it did, but I was pretty focused on Kenji's shirt the whole time.

Q. Has there ever been any "rowdy" behavior at any other assembly?

A. Maybe on occasion, during a particularly controversial assembly, but like I said, it's unusual.

Q. Mr. Carpenter, let's move on to after the assembly. Did the remainder of the school day run as planned?

A. Yes, I mean if you're asking about the bell schedule, well that went as planned. But outside of that, the faculty lounge had an unusual buzz of conversation, centering around the assembly fiasco.

Q. What do you mean by that?

A. A lot of teachers were discussing the issue of Kenji's inappropriate t-shirt in the faculty lounge during lunch. One teacher mentioned that one of her students approached her expressing discomfort with her class representative sporting an unpatriotic message in front of the whole school. Other teachers were just generally discussing their opinions. Ms. Marquez's daughter told me she was really embarrassed for her mom.

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Q. Did the student who reported her discomfort to a teacher specifically identify Kenji's message as being "unpatriotic"?

A. I don't know. The teacher used the phrase "unpatriotic message" when she described the student's complaint to me, but I don't know if the student used those words.

Q. Did any teachers report that their lesson plans were affected?

A. No, not that was specifically reported to me. Several teachers commented that their students were talking about the t-shirt, Kenji, and the NSA, in the hallways and in between classes. I could tell that both the students and teachers were riled up over the t-shirt.

Q. Did you take any actions after hearing this in the faculty lounge?

A. First I went outside to the courtyard where students sometimes gather, and heard a lot of students talking about Kenji.

Q. What were they saying?

A. Well, some of them were saying he was an activist standing up for what was right, and others said that the computer science kids and Alice Marquez were probably not going to be very happy about it. That kind of stuff. They seemed upset with each other. It seemed to me that something had to be done before the situation escalated.

Q. Did you hear any specific threats or arguments?

A. Not specifically, no. But like I said it seemed like something was on the verge.

Q. At what point did you talk directly with Mr. Davis?

A. I met with Kenji after his last class ended, at approximately 3pm.

Q. Did you punish him?

A. Yes, I suspended him for three days. I also told him that due to his disregard for school rules and due to the fact that his message offended his fellow classmates, he would no longer be able to serve as senior class representative.

Q. Had Kenji ever had disciplinary action taken against him before?

A. No, he didn't have any other adverse actions in his file.

Q. What was the basis for suspension of Mr. Davis?

A. Well, as I explained to Kenji, the language "The NSA Sucks" is inappropriately crude and offensive language at school, and he inappropriately used his position as a student council member to send a derogatory message about an assembly that the school specifically sponsored and about career opportunities the school chose to publicize. We discussed the divisive atmosphere the message had created at school that day, and I suspended him for breaking School Rule #45 which specifically prohibits students from wearing t-shirts, buttons, patches, and any paraphernalia that contain a political message.

Q. Why do you think "The NSA sucks" is inappropriately crude and offensive language?

A. Well, "sucks" can refer to a sexual act. I think all the students know that.

Q. You mentioned the divisive atmosphere Mr. Davis's shirt created. What exactly were you afraid would happen?

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A. I was afraid there might be unrest. Some of the other students and teachers were offended by the patch and I thought they might be unhappy if we did nothing about it. Plus I didn't want it to become even more of an issue in the school, and I thought that by removing Kenji for a couple of days it would help quiet things down.

Q. So you weren't afraid of violence?

A. No, not violence, but I was afraid of confrontation between Kenji and the other students. And, I want to emphasize, I was also afraid for Kenji's safety when he was off campus.

Q. Why were you afraid for his safety while off campus?

A. Well, I know that once or maybe twice in the last several years there have been problems off campus.

Q. Can you describe those incidents?

A. I remember one student in a government class expressed disdain for how the United States was conducting the war on terror, and was then followed home from school and harassed when she was off campus.

Q. Any other incidents?

A. That's the only one I remember the specifics of.

Q. Did that make you concerned about Kenji?

A. Yes, of course. And I thought that since Kenji's message was a personal one directed at a beloved volunteer coach, as opposed to a more general political one, he might be more likely to be harassed.

Q. What do you mean by "beloved volunteer coach"? Can you say more about that characterization?

A. Oh, sure. Students absolutely love Ms. Marquez. She has really gotten a lot of them so engaged in science and technology, she plans lots of activities and field trips to the university, and she is tremendously warm and mentoring. She just has one of those personalities that really connects with teenagers, which not very many people have. And she has made herself available to our students who want advice or help about just about anything.

Q. When was the rule against political buttons and patches put into place?

A. It was formally adopted in 1972. It's a long-standing rule and has been on the books ever since.

Q. And in what context was the rule enacted?

A. It was during the Vietnam Era, when activism on campuses – not only college campuses, but also on high school campuses such as Ann Arbor High School – was soaring. From what I understand, the tension between the pro- and anti-war activists was at its all time highest, and resulted in a series of incidents during which both pro- and anti-war student activists were harassed on campus. The curriculum and learning were both suffering, and the Administration prohibited political and other controversial messages and paraphernalia in an effort to curb the disputes at school.

Q. When was the last time the rule was enforced?

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A. Um, after the havoc of the 1970s, there were some problems with political issues on campus arising out of the Iran-Contra affair in the mid-1980s, and a few students were disciplined for violating Rule 45 in 1986 or 1987, and around the time of the first Gulf War in the early '90s. And then there was another flare-up of problematic political messages in the immediate aftermath of the contested presidential election in 2000, and students had to be disciplined then. But after that political activism really died down.

Q. So was Kenji's suspension the first time that the school has enforced the rule since December 2000?

A. Yes, that's right.

Q. So between 2000 and Mr. Davis's punishment in 2014, the rule had not been enforced?

A. No, I mean, there was no need until now.

Q. Mr. Carpenter, isn't true that students regularly wear t-shirts to school that say things like "I'd Rather Be Waterboarding Terrorists?"

A. I don't think that's the case.

Q. What about shirts that say "Protect America: Arrest Snowden?"

A. I haven't seen those shirts either.

Q. What about shirts that say "See Something / Say Something"?

A. No.

Q. So you don't have any awareness of students wearing any of those shirts?

A. I haven't noticed those shirts, at least not as a regular occurrence.

Q. Have any students been disciplined for wearing shirts or buttons or patches with those messages?

A. No, and I mean, those wouldn't even be the same as Kenji's display.

Q. What do you mean by that?

A. Well, those messages are not the type of inflammatory political or controversial messages prohibited by the Rule. "The NSA Sucks" is lewd language that has no place inside a school.

Q. Have there been any other incidents on school premises involving messages about the government's surveillance program or war on terror?

A. Not on school premises as far as I'm aware, no.

Q. Are you aware of any other incidents involving such messages that occurred off of school premises?

A. Like I said earlier, I know one student who expressed concern about U.S. government actions during a government class was harassed by other students at his home once or twice. Her parents called me to express concern. There could be others, but that's the only one I'm aware of.