

SEXUAL HARASSMENT, THE INTERNET AND LIBRARIES - CASES

UNITED STATES

Mainstream Loudoun v. Board of Trustees of the Loudoun County Library, 2 F. Supp. 2d 783, (E.D. Va. 1998). Library Board adopted policy to use filters to prevent creation of hostile work environment. Court did not find evidence of a hostile work environment and barred the library from enforcing its policy. Documents at <http://www.techlawjournal.com/courts/loudon/Default.htm>

Smith v. Minneapolis Public Library, Charge Number: 265A00651; FEPA Number: 0000 (May 23, 2001). Determination by Bobbie J. Carter, Director, Minneapolis Area Office, Equal Employment Opportunity Commission, provided to *Tech Law Journal* by the Hallagan Law Firm.

<http://www.techlawjournal.com/internet/20010523eeocdet.asp>

Complaint (May 2, 2000).

<http://www.techlawjournal.com/internet/20010523com.asp>

CANADA

Ottawa Public Library v. Canadian Union of Public Employees, Local 503 (Ottawa-Carleton Public Employees Union) (Sexual Harassment Grievance). (July 10, 2003). Minutes of Settlement. Under Canadian law, parties agreed to acknowledge that accessing sexually explicit material on the Internet by patrons in the presence of staff does not, in and of itself, constitute sexually harassing behavior, parties agreed to minimize where possible, the direct sight lines between unfiltered public access terminals and librarian workstations and take related measures to provide an environment free from sexual harassment.

SEXUAL HARASSMENT, EMPLOYERS LIABILITY FOR CUSTOMERS – LAW

Federal - 29 C.F.R. Section 1604.11(e):

An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employees) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

California - Cal Gov Code § 12940 (2006):

An employer may also be responsible for the acts of nonemployees, with respect to sexual harassment of employees, applicants, or persons providing services pursuant to a contract in the workplace, where the employer, or its agents or supervisors, knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing cases involving the acts of nonemployees, the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of those nonemployees shall be considered. An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment.

SEXUAL HARASSMENT, THE INTERNET, LIBRARIES AND OTHER PLACES OPEN TO THE PUBLIC - ARTICLES

Benjamin-Samuels, Alicia. (June 22, 2001). EEOC view of library-porn case 'out of step' with First Amendment, *freedomforum.org*
<http://www.freedomforum.org/templates/document.asp?documentID=14226>

Chau, Hope N. (October, 2005). Comment: Challenges and solutions for public employers: maintaining work environments free of harassment and discrimination by non-employees, 93 *California Law Review* 1455

Kaplan, Carl S. (June 1, 2001). Controversial ruling [Minneapolis] on Library Filters, *New York Times* <http://tinyurl.com/zokwd>

Tech Law Journal. (May 23, 2001). EEOC finds library policy of unrestricted internet access creates sexually hostile work environment for librarians
<http://www.techlawjournal.com/internet/20010523.asp>

Volokh, Eugene. Freedom of speech vs. workplace harassment law — a growing conflict (multiple articles) <http://www.law.ucla.edu/volokh/harass/>
 See esp. Freedom of Speech, Cyberspace, Harassment Law, and the Clinton Administration 63 *Law & Contemporary Problems* 299 (2000).
<http://www.law.ucla.edu/volokh/harass/cyberspa.htm>

Young, Gary. (September 15, 2003). No smut at work please. *The National Law Journal*. Discusses Minneapolis settlement agreement to pay \$435,000 to 12 employees <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1063212018621>

LIBRARY INTERNET POLICIES POST SUPREME COURT DECISION (SELECTED CITES)

Anten, Todd. (Fall, 2005). Note: Please disable the entire filter: why non-removable filters on public library computers violate the first amendment, 11 *Texas Journal on Civil Liberties & Civil Rights* 65. Summary at
<http://www.communitydefense.org/cdcdocs/CDR/CDR--200602.htm#13>

Ayre, Lori. Libraryfiltering.org. Highly useful filtering chart to help libraries compare vendor filter options. See also excerpt from Ayre's Filtering and filter software, *Library Technology Reports*, (March/April 2004). (Excerpt at http://galecia.com/included/docs/filtering_software.pdf) and filtering updates at her blog, Mentat http://www.galecia.com/weblog/mt/archives/cat_filtering.php

Heins, M., Cho, C., & Feldman, A. (2006). Internet filters: A public policy report. New York: Brennan Center for Justice at NYU School of Law. Summarizes latest filter studies. <http://www.fepproject.org/policyreports/filters2.pdf>

Minow, Mary. (April 22, 2004). Public libraries and the children's internet protection act (CIPA): legal sources. Links to cases, laws <http://www.llrx.com/features/cipabiblio.htm>. See also Lawfully surfing the net: disabling public library internet filters to avoid more lawsuits in the United States (April 5, 2004). *First Monday*, http://firstmonday.org/issues/issue9_4/minow/ and Infopeople webcast. (July 17, 2003). CIPA Update. http://infopeople.org/training/webcasts/webcast_data/45/index.html

Webjunction. CIPA and filtering: down-to-earth advice about the CIPA ruling and filtering options <http://www.webjunction.org/do/Navigation?category=496>

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