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## Pole Dancing: The New Pilates?

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## Pole Dancing: The New Pilates?

Posted By [Timothy Zick](#) On September 4, 2008 @ 4:06 pm In [Constitutional Law, Culture, First Amendment](#) | [5 Comments](#)

The *New York Times*, among many other outlets, [reports](#) <sup>[1]</sup> today on a dispute between a pole dancing instructor and a local zoning board in a suburb outside Pittsburgh. The instructor was denied a permit to operate her business, which offers instruction in "pole dancing, power lap dancing, salsa and other forms of dance and fitness." The permit was allegedly denied on the ground that the dance studio is an "adult" business illegally located within 1,000 feet of a bar in a residential area. The instruction apparently does not involve nudity and there is no audience. The instructor, represented by the ACLU, alleges that local officials denied the permit because of the design of her website and logo (which contains a high-heeled shoe) and because the dancing is "provocative" and involves "sexual innuendo." If that is the case, the instructor may have a viable First Amendment claim (in addition to a statutory one regarding application of the zoning law itself). Contrary to the popular portrayal of this case as one concerning the expressiveness of pole dancing, note that the ACLU is framing the issue as one of teaching or instruction rather than expressive dance. The Supreme Court has held that social dancing is [not protected](#) <sup>[2]</sup> under the First Amendment. Performative dance, on the other hand, has received some protection. In particular, the Court has at least been willing to *assume* that nude dancing is expressive. On the matter of the expressiveness of exotic dance (including the sort that involves nudity), I recommend the (thick) description offered by Judge Richard Posner in his concurrence in [Miller v. City of South Bend](#) <sup>[3]</sup>. Judge Posner begins: "The dancers were presentable although not striking young women. They danced on a stage, with vigor but without accomplishment, . . ." There is much, much more for the curious reader. Given the lack of any audience (other than those in the class), it seems wise to frame this as a "right to teach" case. Assuming this is protected activity, the allegations and quoted statements by officials seem to suggest content discrimination.



But I am as or more interested in the cultural implications of this case than its free speech aspects.

The *Times* article notes that pole dancing instruction has been "gaining in popularity across the country." It is difficult to know whether this is true, although there seems to be some [anecdotal support](#) <sup>[4]</sup> for the claim. In some communities, the book club seems to have been replaced (or supplemented) with pole dancing instruction. The phenomenon is not limited to the U.S. It appears to be catching on in (of all places) [China](#) <sup>[5]</sup> (check out the video report for a sample of the instruction provided). While the report on China suggests that many of the female students there might never have seen a stripper, I would imagine that the connection, particularly although not exclusively among adult women, is clear enough in this country. So what explains the apparent rise in the popularity of this form of instruction? Is it simply a function of boredom with conventional workouts? Is it, as [some have argued](#) <sup>[6]</sup>, a form of release for the stay-at-home mom? A form of female empowerment? I suppose some exercise is better than none at all (although the experts seem to disagree regarding the health benefits of pole dancing). Regardless of its benefits or rewards for those middle-aged and even beyond, I doubt many would suggest that this is something teenage girls (some of the Chinese students appeared to be quite young) should be encouraged to do in lieu of or in addition to, say, soccer. But as a consumer and observer of pop culture, I realize I could well be wrong about that.

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[1] reports: [http://www.nytimes.com/2008/09/04/us/04dance.html?\\_r=1&ref=us&oref=slogin](http://www.nytimes.com/2008/09/04/us/04dance.html?_r=1&ref=us&oref=slogin)

[2] not protected: <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=490&invol=19>

[3] *Miller v. City of South Bend*: <http://www.altlaw.org/v1/cases/482164>

[4] anecdotal support: <http://www.nytimes.com/2007/02/24/nyregion/24pole.html?scp=2&sq=pole%20dancing%20instruction&st=cse>

[5] China: <http://www.nytimes.com/2008/07/25/world/asia/25pole.html?scp=3&sq=pole%20dancing%20instruction&st=cse>

[6] some have argued: <http://www.amazon.com/Striptease-Untold-History-Girlie-Show/dp/0195300769>

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