

# Experts: 'Moral turpitude' clause cited in MSU's move to fire Tucker not easy to define



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"Moral turpitude" is among the reasons cited by Michigan State University as it seeks to terminate head football coach Mel Tucker for cause, but experts say the phrase is ill-defined and legally ambiguous.

Bloomfield Hills civil rights and employment attorney Deborah Gordon said moral turpitude could mean dishonesty, inappropriate sexual behavior, indecent exposure, habitual intoxication or "an act or behavior that violates in any significant way the accepted standards of the community."

"To be very simplistic, it's conduct that is immoral," Gordon said.

But Marty Greenberg, founder of the National Sports Law Institute at Marquette University Law School in Milwaukee and a lawyer who has represented dozens of professional and college coaches, said that "moral turpitude" has no agreed-upon definition.

He said he debated for a year with the attorney general in Utah on what moral turpitude meant, and they couldn't come to an agreement. His law school students also could not come up with a definition in the 50 years he taught. Since it means so many things to different people, he refuses to have it in a contract of any coach he represents, he said.

"It means different things to different people in different states and in different types of environments ... different parts of the country, who you are are, maybe religious beliefs, community standards," Greenberg said. "Everybody has a little different idea of what moral turpitude is, but I can't get down to a definite definition."

"Moral turpitude" is part of an early termination provision in Tucker's 10-year, \$95 million contract. MSU Athletic Director Allan Haller informed Tucker on Monday that the university was moving to terminate him for cause after amassing a body of evidence linked to a sexual harassment complaint filed against the coach by rape survivor and activist Brenda Tracy.

Being fired for cause, if upheld, could cost Tucker more than \$80 million.

In a letter released Monday by MSU, Haller told Tucker, 51, that "undisputed" facts justified the decision and "provide multiple grounds for termination." The action was in response to accusations by Tracy, who filed a formal complaint against Tucker in December. The complaint became public earlier this month, outlining alleged unwanted sexual advances and nonconsensual masturbation by Tucker during a phone call.

Tucker has admitted to flirting with Tracy — who was hired by the university to share her story with student-athletes, and later befriended Tucker — commenting on her looks and body and performing the sex act during the phone call with her, which the coach described as "a late-night intimate conversation," Haller wrote in a five-page letter to the coach.

"Your actions materially breached the agreement, have amounted to 'conduct which constitutes moral turpitude,' and additionally brought 'public disrespect, contempt, or ridicule upon the university,'" Haller wrote.

The university [initially suspended Tucker without pay Sept. 10](#), pending the results of a Title IX investigation and Office for Civil Rights case over allegations of sexual misconduct.

The university's Monday announcement that it intended to fire Tucker prompted the coach to release a statement in which he said he was disappointed but not surprised with the decision. He suggested that the facts and timeline "should cause any fair-minded person to conclude that other motives are at play."

It is not uncommon for a term like "moral turpitude" or "moral depravity" to be included in a coach's contract as a reason that the university could terminate the coach's employment for cause, said Josh Lens, assistant professor of recreation and sport management at the University of Arkansas, Fayetteville.

"Sometimes, you will see a definition section as part of the contract which might define some of the terms in there," said Lens, whose work focuses on legal issues in college athletics. "But a lot of times, universities purposely leave terms like that vague and subject to interpretation

to give them flexibility and a little more leeway when they want to exercise the trigger to terminate the coach for cause."

Tucker's contract gave a few parameters about the meaning of moral turpitude.

"The University may terminate this Agreement prior to the expiration or its term at any time, for cause, without liability to the Coach or any other penalty," Tucker's contract reads.

"Cause for such termination includes, without limitation, the following: (a) the Coach materially breaches this Agreement; (b) the Coach is convicted of a crime, other than a minor traffic offense; (c) the Coach engages in any conduct which constitutes moral turpitude or which, in the University's reasonable judgment, would tend to bring public disrespect, contempt, or ridicule upon the University (e.g., material insubordination or impropriety involving a student)."

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