



SOCIAL MEDIA: BOUNDARIES, TECHNOLOGY, PRIVACY & ETHICS

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This presentation is meant to give you some basic information, and the materials are not intended to be relied upon as legal advice. If you have any questions, please contact your attorney or Pemberton Law.

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Social Media Reality in 2022

377,247 Retweets 1,465,110 Likes

29K 377K 1.5M



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Technology

- Technology has given all of us a window into each others' lives that never existed before
- Technology tends to break down defenses and creates a feeling of distance making it "easier" to act inappropriately
- Technology is everywhere, and it creates a lot of digital evidence
- Digital evidence exists forever



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Rules for Employees



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Policy 423

Employee-Student Relationships

- "This policy applies to all District employees at all times, whether on or off duty and on or off of school district locations."
- "Each School District employee is expected to exercise good judgment and professionalism in all interpersonal relationships with students."
- "Excessive informal and social involvement with individual students is unprofessional, is not compatible with employee-student relationships, and is inappropriate."



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Technology Use At Work

- Employees have no right to privacy while using the employer's technology
- Discipline for violation of acceptable use policies will result in "progressive discipline" in most instances, and either "at will" or "just cause" analysis
- "Just Cause" Discipline Factors Include:
 - Was there a rule in place?
 - Was the rule reasonable?
 - Did the employee know of the rule?
 - How egregious is the conduct? Does it require immediate termination?
 - Are there any mitigating factors?



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Off-Duty Conduct

Nexus Test - Does the conduct:

- 1) Harm the employer's operations;
- 2) Adversely affect the employee's ability to perform his or her job; or
- 3) Lead other employees to refuse to work with the employee?

Example → Paraprofessional regularly posts photos on social media pages that contain vulgar and offensive language toward the LBGTQ+ community. Superintendent receives a printout of the paraprofessional's page from a concerned student, stating the posts make them feel uncomfortable at school.



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Staff

• Defamation

- Potential for staff to use social media to make defamatory statements about coworkers, supervisors, students, or parents
- The elements of proof are:
 - A false statement;
 - Made to someone other than the plaintiff; and
 - The statement caused harm to the plaintiff's reputation and lowered him or her in the estimation of the community.



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Interaction with Students

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Imbalance of Power

- School district employees are in a position of authority over students.
- Minnesota teachers and staff have ethical obligations to not use professional relationships with students to their private advantage.
- Mandated reporters in schools have legal obligations to report harm to students, not cause harm.



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Staff → Student Boundaries

- Think not only about impropriety, but the appearance of impropriety.
- Be mindful of ethical obligations and inherent position of authority and influence over students.
- Employees must maintain boundaries to protect themselves and their students.



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Technology Safeguards

- Have other adults involved in text messages or other exchanges (instant message, Facebook messaging, etc.).
- Use group texts/emails.
- Limit communication to school or school-activity-related matters.
- Keep your guard up.



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Recording/Listening In

- Online learning has increased the amount of recording and listening in on the classroom by non-students.
- Assume at all times that you are being recorded or that a parent is listening.
- Assume at all times that emails, texts, and other messages you exchange with a student are being read by a parent.



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Use Common Sense

Staff must exercise good judgment and professionalism in all interpersonal relationships and communication with students.

- Compliments
- Jokes
- Getting too personal
- Poor judgment in the moment: Avoid "peer to peer" communication. Students and adults should not be "peers."



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You Are An Ambassador

- The line between personal and professional relationships is blurred more and more.
- Maintain professionalism.
- Remember – you are a positive ambassador for the school and a role model to students in the community.
- What you write or post is your responsibility.

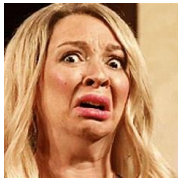


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Scenarios

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Should I post this picture with a student in it?



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Should I comment/react to my students' posts?



18

Should I “friend” students?



19

What if I only “reacted” to someone else’s post?



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But I used to go to school here, and I’m still friends with all my old classmates!



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Can (or Should) I share my opinions?



22

A student keeps texting me in the middle of the night



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Seek Assistance from Others

We are human and so are our students. Many students struggle with mental health issues, lack of family support, substance abuse, etc.

- If a student needs support, help get that student to a school counselor or other professional.
- Talk to the student's parent/guardian, help with finding resources instead of trying to solve the problem yourself.
- Bring other adults into the situation.
- Keep accurate/complete records.



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Kindness and Civility

- Rudeness and incivility create a certain type of culture that can lead to bigger issues.
- Employees should value an inclusive and respectful school environment.
- Kindness matters.



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Questions?



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