

## The Double Edged Sword of Social Media

With the proliferation of social media apps and usage, all sorts of legal issues surrounding student and staff communications have arisen. Many do not realize that, legally speaking, use of social media off of school grounds may lead to discipline on school grounds. From Snapchat, Instagram and Tik Tok to the old classics: Facebook, texting and e-mail, as well as those apps that have yet to be invented, social media has opened up a virtual can of worms for schools. On a daily basis, administrators must confront the impacts of the use of social media—both positive and negative.

Social media can be a positive tool for schools. It allows for ease of communication, the ability to reach larger audiences, preempting or mitigating the effect of negative press or scandals, as well as conveniently informing the student-parent-teacher body of instructional, educational or extra-curricular programs or activities. Yet all these uses can also be fraught with pitfalls: Tone that is used, impact and the effect that inappropriate behavior may have on the school community should be communicated with frequency to students and staff alike. Students and their families/guardians must understand that communications outside of school on social media that have an impact on the school community can, and will in most cases, lead to discipline back at school.<sup>1</sup> For example a threat to school safety made via social media or bullying and use of unacceptable language are usually disciplinary events.

Students and staff alike should also be aware that not all speech on social media is protected and that there can be consequences for impulsive decisions. Some examples of unprotected speech are:

- pictures that may offend or embarrass another student,
- derogatory comments about another student,
- threats to fight or harm someone, or
- offerings to sell weapons or drugs.

For staff, there should be an understanding of the difference between speech that is a matter of “public concern”, such as curriculum requirements or integration of classrooms, or strictly “private concern,” such as complaints about students or parents, or of threats received by the school. Staff should also be extremely careful about what they are posting, both pictures and comments, since they may be representing the school and the school community.

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<sup>1</sup> Schools should consult with their school attorney to make sure their student handbook and Code of Conduct language includes about the impact of outside conduct and penalties for engaging in such conduct.

There are also very specific issues that have arisen from photo sharing sites. For example, a photograph of a teacher water skiing in the Bahamas while she is claiming to be out on disability may be discoverable evidence in a termination hearing. Another example is an administrator posting a Special Olympics team picture, which, by implication, identifies a school student as one with special needs and may result in a FERPA violation.

Particular issues also arise in the context of text messaging and e-mail communication between students and staff. Rules and policies should be set out and clearly publicized in advance; and if text messaging must be used, for example for communication while on a class trip, policies and expectations about the types of acceptable communications should be established.

All in all, the ever-changing social media landscape can be both a blessing and a curse for schools, students and staff.

If you have any questions about these issues, or are unsure about what is or is not an appropriate communication/post, please contact your school attorney, or contact either [Sara Richmond](#) or [Ayanna Thomas](#) at Bond and we will be happy to provide consultation or a presentation to either your staff or students.



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