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Social Networking: Unique Challenges for Independent Schools

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social networking

overview

- new evolving area
- protection of all constituencies
 - students, faculty, staff, parents, donors, alumni, applicants (students and employees)
 - protection of school
- create systems limiting liability
 - consider experiences of all users
 - mission and culture of school
- embrace the technology
 - second nature for next generation of leadership



embrace the technology

- communication method for current generations
 - accepted form of interaction
 - i.e.: access and use of cell phones
- second nature for next generation of leadership
 - cutting edge now is old hat to new leadership
- communicating with students while maintaining role as educator
 - use of facebook as educational tool vs. providing access to personal information
 - what is posted on “school” account; who controls
- especially difficult for educators who rely on same technology as students
 - teachers texting students
- marketing, admissions, development



legal claims

- violation of state/federal statute or regulation
 - children’s service reporting obligations
 - donor registration reporting obligations
- criminal conduct
 - sexting reporting
 - Internet child pornography reporting
- breach of contract
 - violation of promises specific or implied in written agreement
 - enrollment, employment or other contracts
- common law
 - established by court cases
 - negligence (privacy, defamation, supervision)
 - school had duty/failed to exercise duty/harm resulted from failure to exercise duty/obligation to compensate for resulting harm

considerations for approach foundation of philosophy

- boundaries
 - appropriate relationships
 - i.e. teacher/student
 - school's culture and philosophy
- notification of behavioral expectations
 - what school expects from
 - students, teachers, parents, community
- school sponsored technology vs. private use
- during “school” time only or also during “private” time
- using school technology or also using private technology

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tools of the trade

social technology

- websites
 - school, employee, student website
- email
 - personal or school sponsored
- youtube
- facebook
 - private or school sanctioned
- twitter
 - private or school sanctioned
- cell phones
 - student or teacher
- blogging
- instant messaging
- skype

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student bullying

- breach of supervision of students filed by parent vs. school
 - student injury resulted from school’s failure to supervise student
- tools used
 - facebook
 - texting on cell phone
 - posting on “social networking websites”
- protective measures
 - policies
 - discipline of students
 - clear and defined consequences
 - due process
 - when applied (24/7, private source)
 - reporting/investigation of allegations
 - obligations of reporting
 - by students, teachers
 - training of students/teachers

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what are they thinking? student behavior

- breach of contract by failure to follow provisions of enrollment document or student discipline code common college application reporting
- behaviors
 - sexting
 - must report to authorities
 - have “sext” maintained but not sent to school
 - facebook
 - posts
 - pictures engaging in prohibited activities
 - negative comments about teachers, school or other matters
 - banter inconsistent with values of school; i.e. racist misogynist
 - print copies of page
 - youtube videos of prohibited behavior
 - hacking school’s website
 - emails of a threatening, violent or otherwise inappropriate nature

what are they thinking? student behavior

- discipline of students
 - student discipline policy
 - clear and defined consequences
 - due process
 - investigation procedure
 - expectations related to reporting of offences by others
 - code of conduct
 - when applied
 - during school or school activities
 - on campus
 - 24/7
 - summer/holidays
 - field trips
 - prohibited behaviors
 - drinking, drug use other behavior
 - “behaviors inconsistent with values of school”

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teacher behavior with students

- school's failure to supervise teacher resulted in injury to student
- boundaries of relationship blurred
 - whose communication tools are appropriate?
 - often these are teacher's tools as well
- facebook
 - friending current or former students on personal account
 - student exposed to possibly inappropriate or personal information
 - teacher has access to student page and implied obligation to act on information obtained
- cell phone
 - when is use appropriate
 - calls vs. texting
- gaming
 - teacher participation and encouragement of student resulted in addiction of student

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teacher behavior outside of school

- school's failure to follow policies resulted in wrongful termination
 - breach of employment contract
 - discrimination based on protected category
 - violation of policies, procedures, handbook, past practice
- actions of teacher inconsistent with educator standards
 - websites
 - creation of inappropriate website
 - nature of after school employment
 - activity in existing websites (promotion of violence)
 - Google search results
 - information reflecting poor decision making
 - facebook
 - posting by self or others
 - youtube postings
 - posted by employee or others

teacher behavior impacts student performance

- failure to comply with representations in enrollment contract or other materials resulted in negative impact on student's performance
 - school representations
 - students treated in an equal and non-discriminatory manner;
 - supporting each member of the school community
- teacher's personal relationship with select parents resulted in preferential treatment of student
 - emailing parents from personal address
 - friending parents
 - providing cell phone number
 - posting pictures
- challenge:
 - employee/parents

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privacy

- did constituencies have expectation of privacy
 - policies describing rights and appropriate expectations
 - liability to school for demanding waiver of privacy rights
 - demand use of teacher photo and stalker finds her and kills her
 - student abducted after access to picture on website
- was privacy expectation reasonable?
 - school posts student grades on website
- did school have valid cause to invade privacy
 - claims teacher was visiting pedophile sites during school day
- was the nature of the intrusion reasonable in light of the cause
 - balancing test

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privacy concerns: student

- actions resulted in dissemination of confidential information or access to “protected information”
- student information
 - school or individual employee’s use of photos, images and student work without permission resulted in dissemination of private protected information
 - school
 - obtain written permission from parent
 - website, promotional materials, newspaper and other media, facebook page
 - employee precluded from using such information for personal use
 - school monitoring resulted in breach of student privacy
 - webcam
 - installing webcam on student laptops without knowledge of family
 - student emails (school or personal)
 - student website use
 - facebook or demand for passwords or other access

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privacy concerns: employees

- actions of school resulted in dissemination of confidential information or access to “protected information” of employees
- website
 - mandatory inclusion of pictures, phone numbers, educational history
 - potential claim of privacy or negligence
- employer access to
 - emails and websites visited
 - notify employee of privacy expectation
 - care to secure private financial and medical information of employee
 - social security number
 - salary and other information

development/marketing/admissions

- actions of school resulted in dissemination of confidential information or access to “protected information”
 - general rules
 - photos and likeness on promotional materials, websites, facebook must be authorized
 - giving and other contact information must be authorized
 - parent contact data not be distributed or sold for solicitation purposes
- Facebook and twitter
 - GREAT CAUTION IN POSTING
 - official representation by school
- email
 - permission from email recipient
 - provide opt out language, assure removal
- website and promotional material clear and honest
 - detrimental reliance and bases of failure to educate
 - i.e. students playing lacrosse when school lacks team
- register with state agencies if soliciting through email or other electronic communication

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document and policy review

- employee handbook
 - code of conduct
 - use of student images
 - technology and proper use
 - discipline and termination provisions
- employment contracts
 - grounds for termination
 - standards of behavior
- student (parent) handbook
 - technology and proper use
 - code of conduct
 - disciplinary procedure
 - notice to college and university of discipline
 - bullying policy

document and policy review

- enrollment contract
 - student code of conduct
 - grounds for discipline
 - impact of removal on tuition
 - notice to college and university of discipline
- bullying policy
 - reporting policy and procedures
 - employee obligations
 - investigation procedure
 - follow up with parents and other parties
 - discipline standards
- IT
 - portal access policy
 - security policy
 - e-commerce policy
 - red flag
 - monitoring of emails/ web site usage





the road ahead is
bright

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