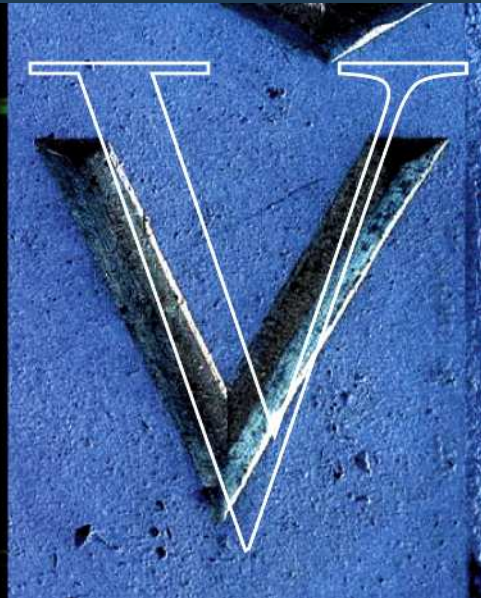
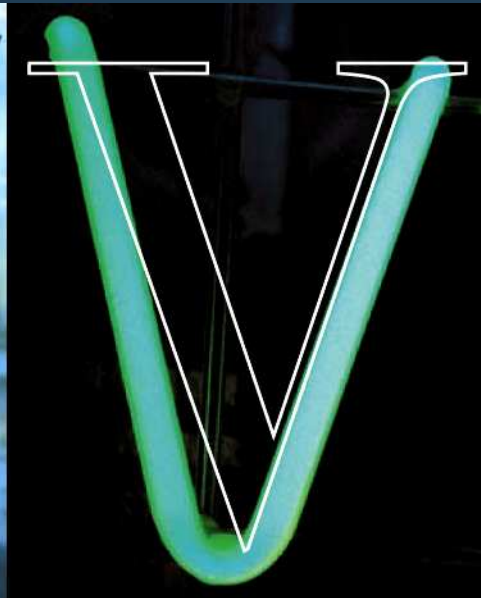
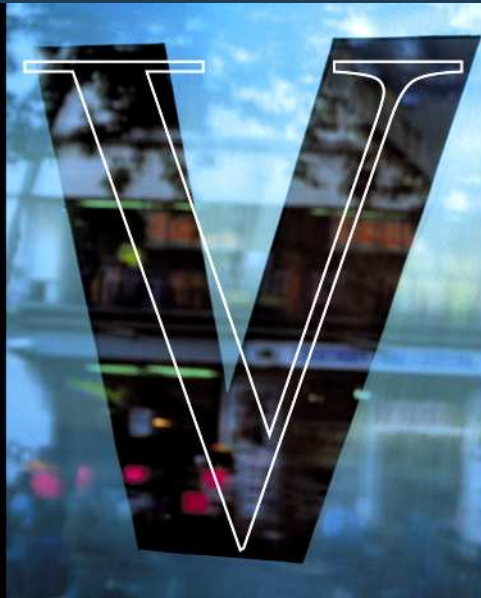
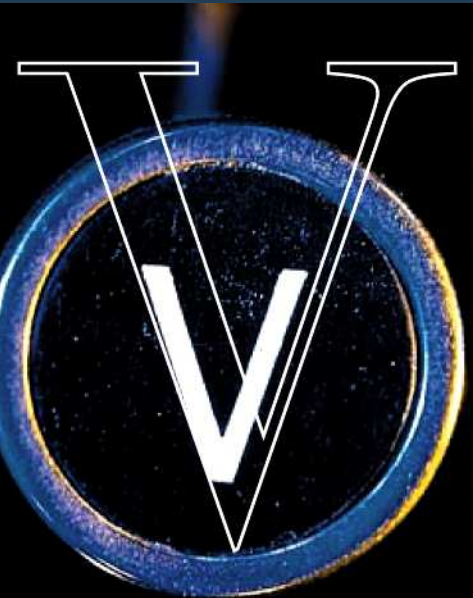


VENABLE[®]_{LLP}

Social Media: A 360 Legal View SAIS-MISBO 2012 Annual Conference

Presented by Heather J. Broadwater

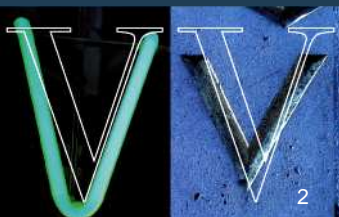
October 21, 2012



Session Overview

- social networking and digital communication tools continue to grow in number, popularity, and user base
- importance and difficulty of maintaining appropriate boundaries without sacrificing the instructional and operational benefits offered by these tools
- NOTE: CPE Credit – sign sheet in back of conference room

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Technology Census

- school work history
 - 1 to 4 years
 - 5 to 15 years
 - 16 to 25 years
 - over 25 years
- *cell phone ownership
 - no
 - 1-5 years
 - 6 years or more
 - as long as remember
- *computer ownership
 - college without computer
 - college with computer / without internet
 - college with computer / with internet
- primary communication tool in personal life
 - “land line”
 - wireless phone call
 - wireless phone text message
 - email
 - other

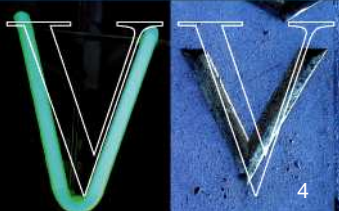
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**NOTHING MADE YOU HAPPIER
THAN SEEING THIS WHEN
WALKING INTO A CLASSROOM
AS A KID.**

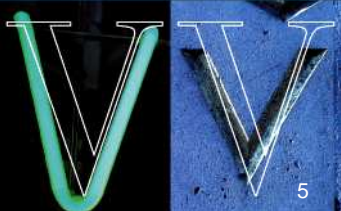
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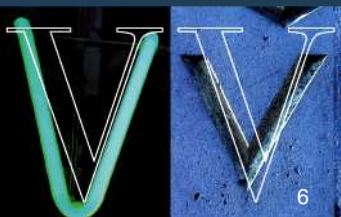
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SOURCE: <http://www.audiolinks.com>



SOURCE: <http://www.radiomuseum.org>

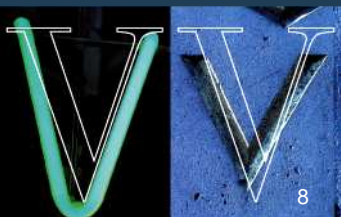
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SOURCE: <http://www.polyvore.com>

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What is considered “Social Media”?

- websites / portals
- email
- YouTube
- Facebook
- Twitter
- blogs
- instant messages
- text messages
- Skype
- apps
- other?

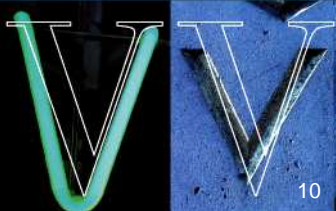
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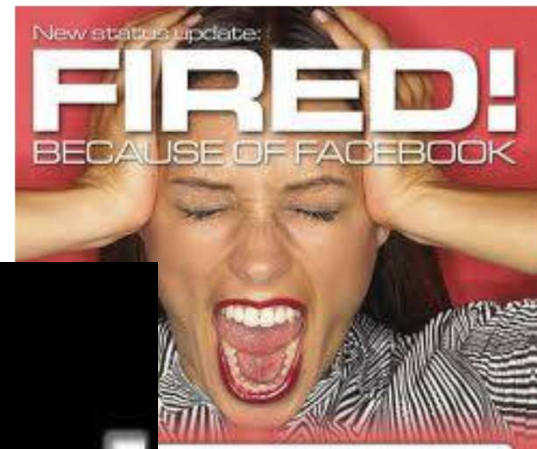
The "Social Media Bandwagon"



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Social Media Issues



See ya later - I'm taking these social media accounts and I'm going home, bye!

Uh oh...



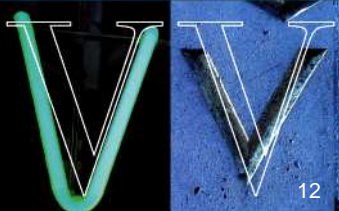
Former Employee



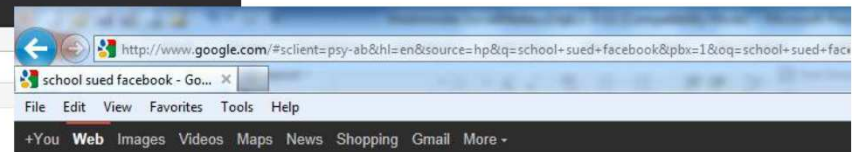
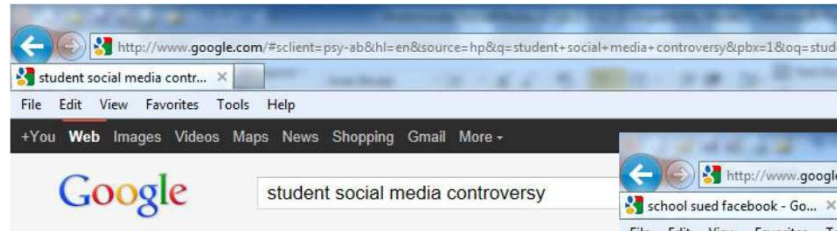
Business



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Social Media in the School



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Scholarly articles for **student social media** [Biotechnology, 1996-2000: the years of controversy](#) [... of place: The impact of electronic media on social](#) [... Media influence and the Payne Fund controversies](#)

Student tweets causing controversy for uni [www.usatodayeducate.com/.../student-tweets-causin](#)
Sep 18, 2011 – **Student tweets causing controversy** is a big issue and I think the power of **social media** is

Social Media Controversy Arises Between [www.eastidahonews.com/.../social-media-controve](#)
Aug 5, 2011 – "You'll have a lot of school districts that **media** communication with **students**," he said. "Then

Social media law draws controversy - Inde [www.examiner.net/news/.../Social-media-law-draws-](#)
Sep 6, 2011 – ... ability to communicate with **student** sites ... **media** portion of the bill that has been **contro**

Social Networking Controversy in Missouri [wjltta.wordpress.com/.../social-networking-controve](#)
Nov 6, 2011 – **Social Networking Controversy** in M internet site which allows exclusive access with a **cun**

Sam Houston State social media policy spa [www.splc.org/news/newsflash.asp?id=2286](#)
Oct 19, 2011 – Sam Houston State **social media** poll ... a portal to department and **student** organization **sc**

[PDF] **Social Media Access in K-12 Schools: I**

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Washington, DC
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Republic Middle **School Lawsuit News | Facebook** [www.facebook.com/pages/.../School-Lawsuit.../267725249905017](#)
Republic Middle **School Lawsuit News** - Injustice at Republic Middle **School** - Description: This FB page is intended to be used for information on the **Lawsuit** ...

NY school sued after teen suspended over rosary | Facebook [www.facebook.com/note.php?note_id=399804902340](#)
TweenTribune wrote a note titled **NY school sued** after teen suspended over rosary. Read the full text here.

Facebook song gets Miss. student suspended, school sued - SPLC ... [www.splc.org/news/newsflash.asp?id=2194](#)
Mar 1, 2011 – **Facebook** song gets Miss. student suspended, **school sued**.

School sued for punishing teens over MySpace pix [www.physorg.com/news/176309192.html](#)
Nov 1, 2009 – (AP) -- Two sophomore girls have **sued** their **school** district after they were punished for posting sexually suggestive photos on **MySpace** during ...

Teen sues Facebook, classmates over cyberbullying | Technically ... [news.cnet.com/8301-17852_3-10187531-71.html](#)
Mar 3, 2009 – Ms. Finkel is not only **suing** those ex-classmates, but also **Facebook**, ... Altschul, told Newsday, "She had a very difficult time in high **school** ...

American private school sued for rejecting HIV-positive boy [digitaljournal.com/article/315397](#)
Dec 2, 2011 – A Pennsylvania private boarding **school** is being hit with a **lawsuit** for ... Connect your Digital Journal account with **Facebook** to use this feature. ...

Punishment for sexy MySpace pics spark ACLU to file lawsuit ... [www.wane.com/.../local/wane_churubusco_Sexy_pics...](#)

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Balancing Potential Benefits and Liability



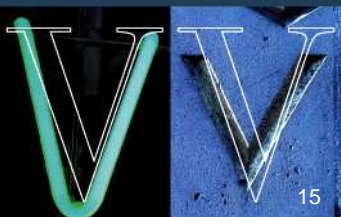
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The Balancing Act

- who are we trying to reach?
- who is trying to reach us?
 - do we want them to reach us?
- how do they use technology?
- how does technology serve our instructional and operational goals?
 - what are the risks / areas of potential liability?
 - are there tools that provide the same or similar benefits with less risk / liability?

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The Balancing Act

- concerns
- benefits

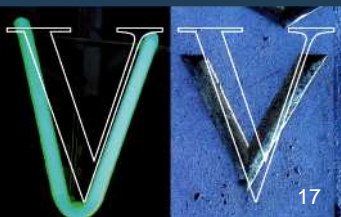
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The Balancing Act

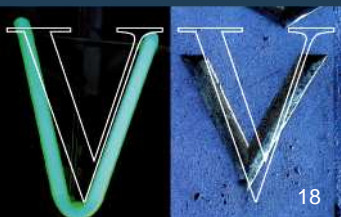
- concerns
 - security
 - confidentiality
 - privacy
 - safety
 - child predators
 - custody issues
 - negligence
 - breach of contract
 - NLRB
- benefits
 - administrative ease
 - efficiency
 - innovation
 - reputation
 - engagement
 - collaboration
 - ‘piggybacking’

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Some Legal Pitfalls

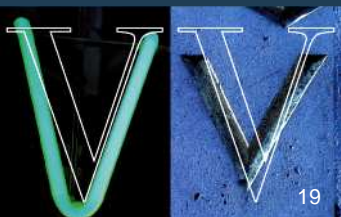
- bullying, harassment, discrimination
 - between employees, between students, between employees and students/parents
- defamation
 - harm to reputation (of school, of students, of employees...)
- wrongful discharge, breach of contract
 - school sued for actions taken against employees or students via social media
- inappropriate contact between employee and current or former student
- negligence, duty to report
 - inappropriate contact between students and outsiders
 - student in harm of danger to self or others
- identity theft
- invasion of / breach of privacy



Our school's stance on...

- “Friending”
 - current students
 - parents of current students
 - colleagues
 - former students
 - parents of former students
- authorized vs. prohibited vs. preferred means of communication
 - call from personal ‘land line’ / cell phone
 - text message
 - non-school email accounts
 - blogs
 - Twitter
 - Facebook
 - YouTube
 - other sites, apps, and tools?

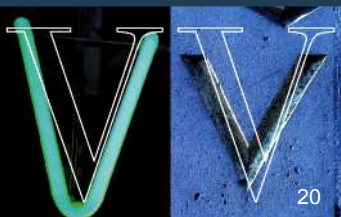
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Our school's stance on...

- Taking and using images of students
- Using student work

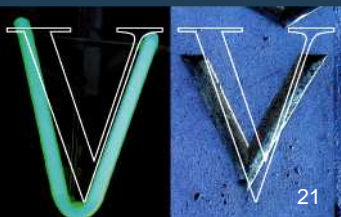
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Policy Framework

- personal conduct
- use of school property and time
- use of tools for job performance
- authority to represent school
- mandatory reporting

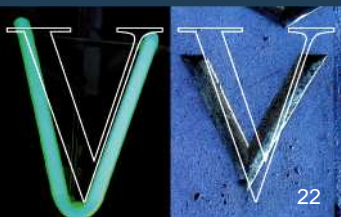
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Policy Development

- who has a role in decisions?
- what are general parameters?
- is there a process for obtaining permission to go outside parameters?
- how are the parameters reviewed and updated?
- how are parameters communicated, monitored, and enforced?

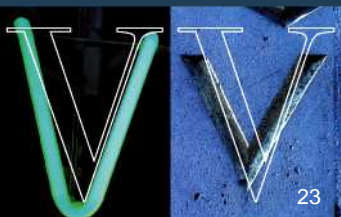
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Challenges of social media

- attractiveness and utility of digital communication tools
- dependence on digital communication tools
- pressure to 'dive in'
- difficulty of maintaining role as educator
 - using students' form of social interaction to communicate in a professional manner
 - use of LOL, OMG, WTF
 - special challenges for educators who rely on same technology as students
- susceptibility to blurring boundaries
 - student perspective on appropriate contact vs. adult perspective
 - misunderstanding of adults' intent
 - ease of forgetting audience
- 'moving target'

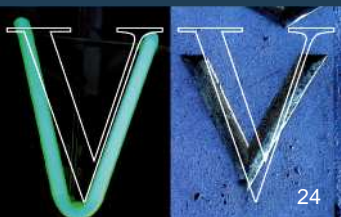
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Questions to consider

- are school employees 'on-duty' at all times and in all places?
 - teachers?
 - administrators?
 - other employees?
 - volunteers?
- what are the boundaries of 'fair game' for school-imposed consequences?
 - communications by the employee before employment?
 - communications about the employee before employment?
 - 'published' before employment
 - 'published' during employment
 - references to outside interests?
 - failure of privacy settings?
 - failure to make use of privacy settings?
- when and how does the school expect employees to report or intervene?

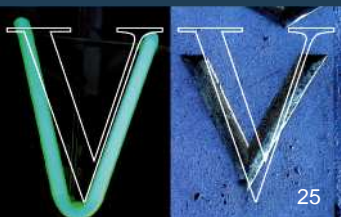
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Takeaways

- schools should:
 - take 360 view and design policies based on
 - experiences of all users
 - mission and culture of the school
 - risk tolerance and what is at stake
 - be informed by ‘worst case’ scenarios and others’ mistakes without being paralyzed by them
 - manage expectations by communicating parameters to employees, students, parents, and other constituents
 - make choices that are deliberate and informed

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