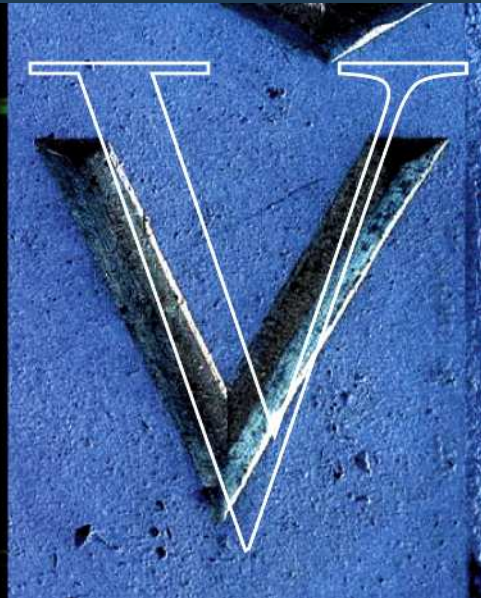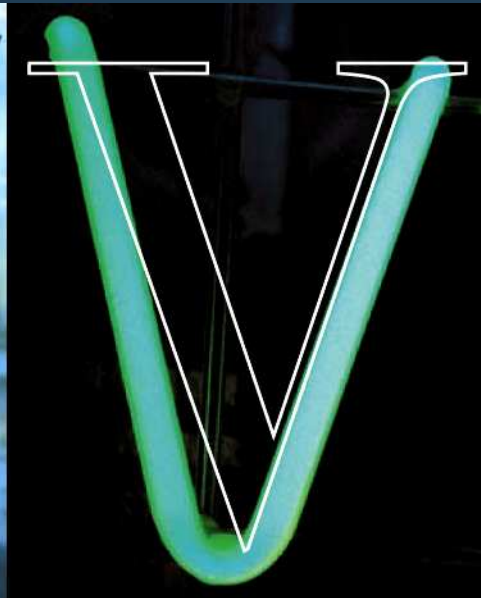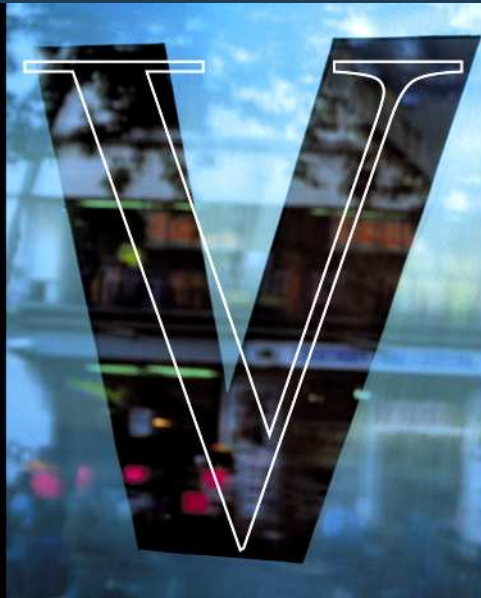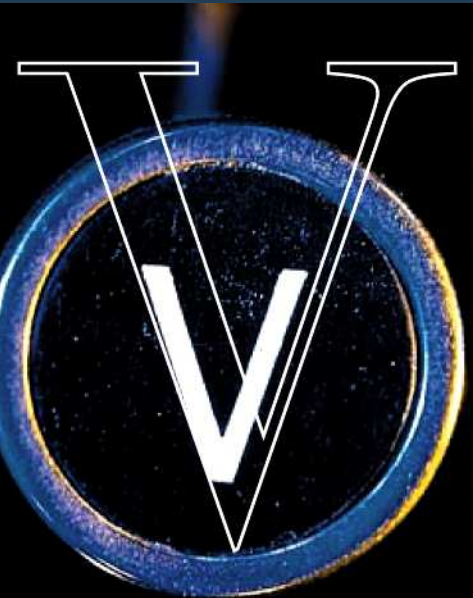# VENABLE® LLP

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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Wise In The School World
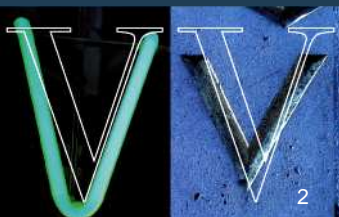
Technology Census

- school work history
  - 1 to 4 years
  - 5 to 15 years
  - 16 to 25 years
  - over 25 years

- *computer ownership
  - college without computer
  - college with computer / without internet
  - college with computer / with internet

- *cell phone ownership
  - no
  - 1-5 years
  - 6 years or more
  - as long as remember

- primary communication tool in personal life
  - "land line"
  - wireless phone call
  - wireless phone text message
  - email
  - other

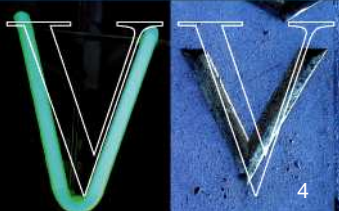NOTHING MADE YOU HAPPIER
THAN SEEING THIS WHEN
WALKING INTO A CLASSROOM
AS A KID.

SCHOOL.FAILBLOG.ORG

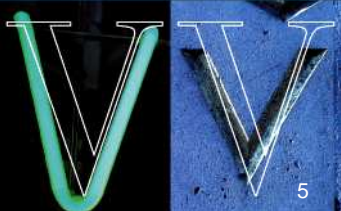SOURCE: http://web.uvic.ca/~uvicav/assets/images/imagesequip/filmstrip.jpg

SOURCE: http://www.audiolinks.com

SOURCE: http://www.radiomuseum.org

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SOURCE: http://www.polyvore.com
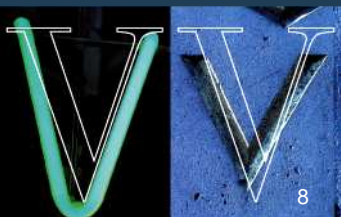
What is considered "Social Media"?

- websites / portals

- email

- YouTube

- Facebook

- Twitter

- blogs

- instant messages

- text messages
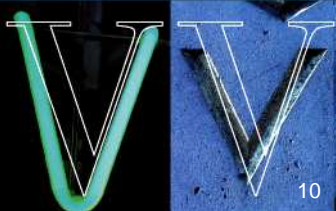
- Skype

- apps

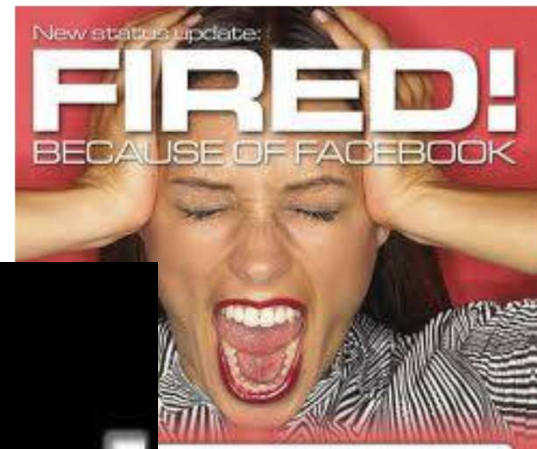- other?

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The "Social Media Bandwagon"

What is considered "Social Media"?

- why do we care about social media?
  – uses / rewards
  – risks

SOURCE: http://www.knockknockstuff.com

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Social Media Issues
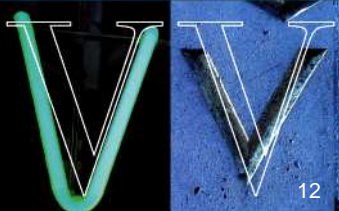
Social Media in the School

Balancing Potential Benefits and Liability

Low risk ⟷ High risk

Risk vs. Reward

Reward vs. Risk

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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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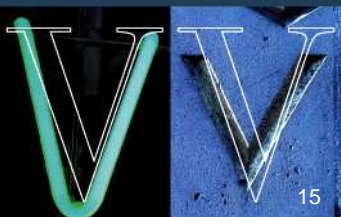
The Balancing Act

- concerns

- benefits

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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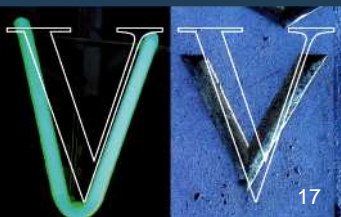
Some Legal Pitfalls

- 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

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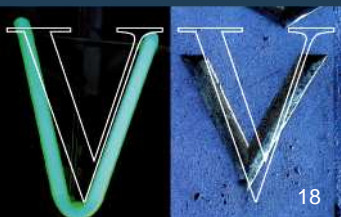
Our school's stance on…

- "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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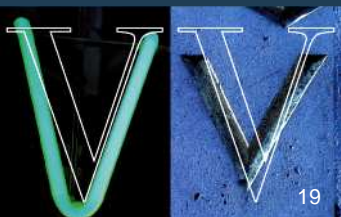
Our school's stance on…

- Taking and using images of students
- Using student work

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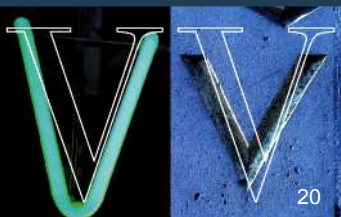
Policy Framework

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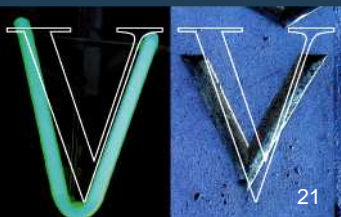
Policy Development

- 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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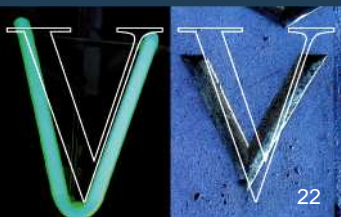
Challenges of social media

- 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'
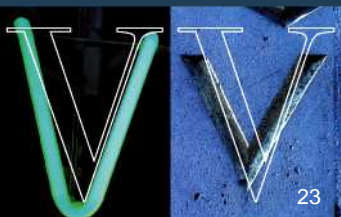
Questions to consider

- 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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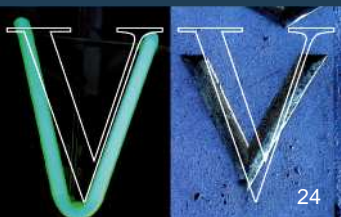
Takeaways

- 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
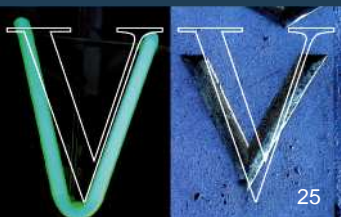
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