



Social Media in the Educational Workplace

Manitoba Association of School Superintendents

January 13, 2017

Presented by: Paul Grower
Keith Senden

What is Social Media?

- Social Media is the future of communication, a countless array of internet based tools and platforms that increase and enhance the sharing of information.
- Social Media has relevance not only for regular internet users, but business as well.
- Platforms like twitter, Facebook, and Linkedin have created online communities where people can share as much or as little personal information as they desire with other members. The result is an enormous amount of information that can be easily shared, searched, promoted, disputed, and created.

What is Social Media?

- **However, the convenience of sharing, searching, promoting and creating things on the internet comes with a cost.**
 - Increased uncertainty of individual privacy
- **Pictures, comments, videos, audio recordings can all be “passed on” once they are uploaded to a social media platform**
 - E.g. Paul makes an inappropriate Instagram post. Paul has utilized his privacy settings and Keith can only view Paul’s picture because he has obtained Paul’s consent by “requesting to follow” Paul on Instagram. Keith takes a screenshot of Paul’s picture and sends it to his entire contact list.
 - Passing on can start a domino effect, otherwise known as “trending”
 - Example: in 2015 the top trending topic for music on Twitter was #OneDirection
- **Important: Privacy settings are only beneficial to users if they are actually used!**



Facebook

- a popular free social networking website that allows registered users to create profiles, upload photos and video, send messages and keep in touch with friends, family and colleagues.
- According to a CNBC article published June 9, 2015 the most followed Facebook page was that of soccer player Cristiano Ronaldo.
 - A single picture received 103,576,615 likes



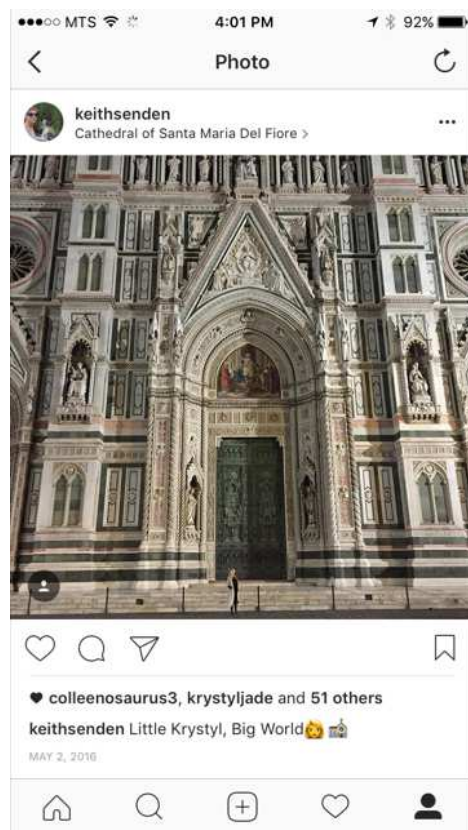
Instagram

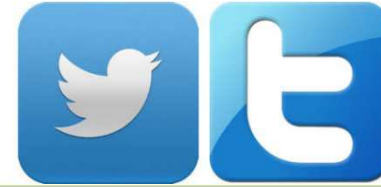
- a free online photo sharing and social network platform that was acquired by Facebook in 2012. Instagram allows members users to upload, edit and share photos with other members through the Instagram website, email, and social media sites such as Twitter, Facebook, Tumblr, Foursquare and Flickr.



Instagram

- Recent Instagram posts by Keith





Twitter

- a free microblogging service that allows registered members to broadcast short posts called tweets. Twitter members can broadcast tweets and follow other users' tweets by using multiple platforms and devices.
- **Danger of the “Re-Tweet”:**
 - Retweet is defined by the Oxford English Dictionary as “a reposted or forwarded message on Twitter”.
 - Re-tweets cannot only lead to violations of privacy, but they can also act as endorsements that may be adverse to an individuals interest, or to the employer of that individuals interest.
 - Example: Hillary Clinton had the most re-tweeted tweet of the 2016 election
 - Like more than 1 million times
 - Re-tweeted more than 636,000 times

Danger of the Re-tweet

- **An article published November 30, 2016 by The Washington Post was titled:**
 - Is a retweet an endorsement from President-elect Trump?
- On one occasion, Trump's account retweeted someone with the username @WhiteGenocideTM and an image circulated by self-proclaimed white supremacists.
 - Both were later deleted from his account



Danger of Twitter (off-duty conduct)

- Justine Sacco, 30-years-old, and the senior director of corporate communications at IAC, began to tweet jokes about the indignities of travelling on her journey from New York to South Africa.
- The Tweets included:
 - “‘Weird German Dude: You’re in First Class. It’s 2014. Get some deodorant.’
 - “Chilly — cucumber sandwiches — bad teeth. Back in London!”
 - “Going to Africa. Hope I don’t get AIDS. Just kidding. I’m white!”
- Sacco’s Twitter account exploded with other Twitter users expressing their dismay with her so-called jokes
- Sacco’s employment with IAC was terminated

LinkedIn

- a social networking site designed specifically for the business community. The goal of the site is to allow registered members to establish and document networks of people they know and trust professionally.
- Linked In allows users to obtain information about an individuals education and career.
 - Example: you are going to meet with a prospective business contact for the first time. In order to feel prepared for the meeting you may look the individual up on LinkedIn in order to gain a better sense of their background including: education focuses, past employment, current employment, and “endorsed skills”.



Snapchat



- Snapchat uses the device's camera to capture snaps and Wi-Fi technology to send them. The app allows the sender to draw or insert text on the snap and determine how many seconds (one to 10) the recipient can view it before the file disappears from the recipient's device. Messages can only be viewed once. If a snap is replayed or a screenshot of the snap is captured, the sender is notified.
- Snapchat became so appealing because it claimed to do what no one can do on the internet → control the distribution of files
- Once a file is uploaded to the internet, it really is there forever and if someone wants to find it bad enough, they will
- The screenshot notification cannot notify users when the receiver of the picture uses a different device to take a “screenshot” of the image that was supposed to disappear

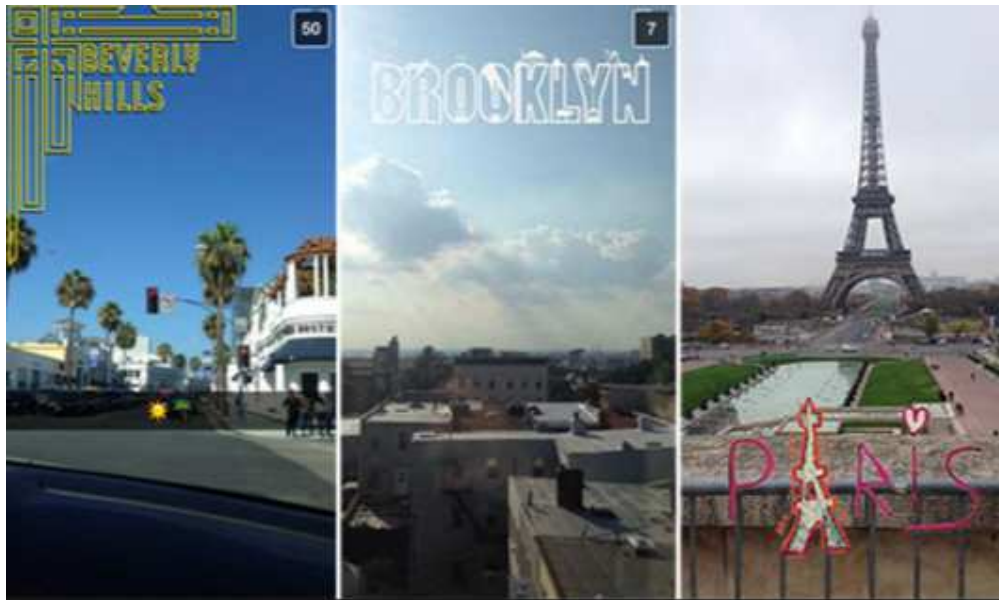
Snapchat Cont'd

- 'Snaps' can be sent privately or to all followers at the discretion of the user.
- Users can choose from multiple filters that adds effects to a picture.
- Popular filters modeled by Kylie Jenner:



Snapchat Cont'd

- **Geofilters can also be selected to show viewers where the user was located at the time the picture was taken:**



Reddit

- a social news website and forum where stories are socially curated and promoted by site members. The site is composed of hundreds of sub-communities, known as "subreddits." Each subreddit has a specific topic such as technology, politics or music. Reddit site members, also known as, "redditors," submit content which is then voted upon by other members. The goal is to send well-regarded stories to the top of the site's main thread page.



Social Media Usership

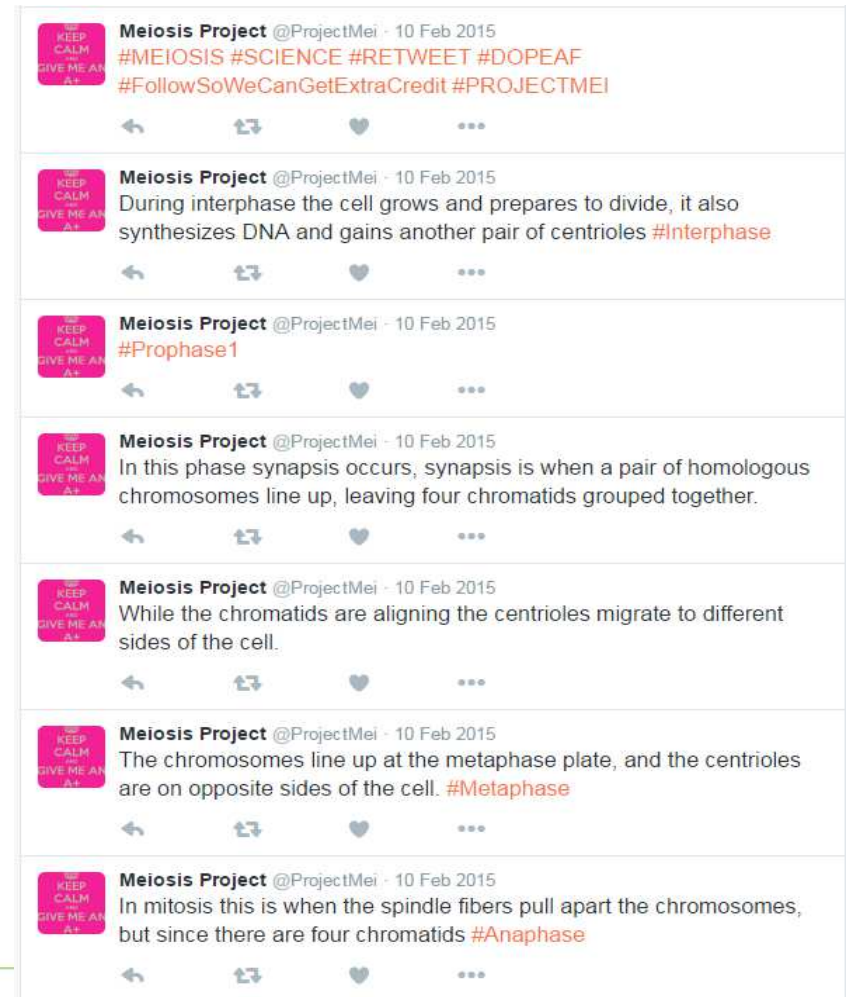
- **Facebook (according to Facebook newsroom):**
 - 1.18 billion daily active users on average for September 2016
 - 1.09 billion mobile daily active users on average for September 2016
 - 1.79 billion monthly active users as of September 30, 2016
 - 1.66 billion mobile monthly active users as of September 30, 2016
 - Approximately 84.9% of daily active users are outside the US and Canada

According to a Social Times article published April 4, 2016:

- **Instagram:** 400 million (sept, 2015)
- **Twitter:** 320 million (March, 2016)
- **LinkedIn:** 100 million (October 2015)

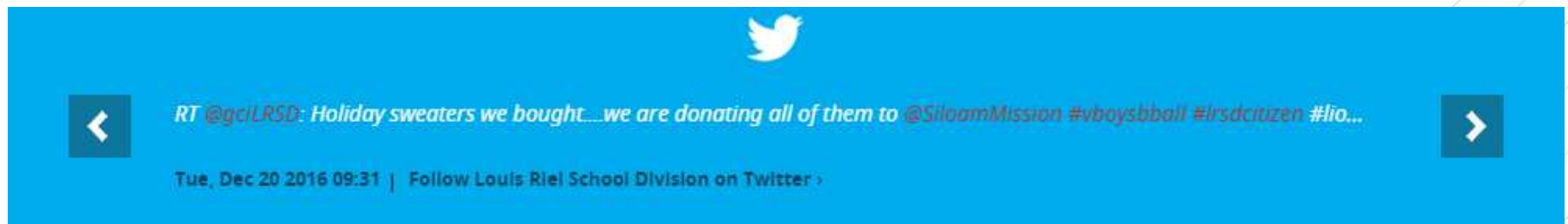
How Can Social Media be Used in Educational Institutions?

- **Learning Tool:**
 - Using technology to enhance learning
 - Example: a teacher challenged students to discuss the stages of meiosis on Twitter, using a shared hashtag; the creative challenge for students was to be succinct enough to describe each stage in 140 characters or less
 - EduTweeters: Educators who Tweet
 - Educators can tweet to one another regarding lesson plans and innovative teaching methods
 - Face-to-Face PD conferences have emerged based on the relationships formed between teachers on Twitter



How Can Social Media be Used in Educational Institutions? Cont'd

- Building a stronger sense of school community:
 - Schools can use social media to share school news with parents who are now social media users as well
- Raise awareness for school fundraising initiatives



- Can be used to share upcoming holidays and schedule changes



Drawbacks of Social Media in Education

Cyberbullying

- “Cyberbullying” means any form of electronic communication, including social media, text messaging, instant messaging, websites and email, typically repeated or with continuing effect, that is intended or ought reasonably to be expected to cause fear, intimidation, humiliation or other damage or harm to another person’s health, emotional well-being, self-esteem or reputation, and includes assisting or encouraging such communication in any way.

- Statistics (stopbullying.ca)
 - 1 in 5 Canadian Teens have witnessed online Bullying
 - 25% of kids between 12-15 have witnessed cyberbullying
 - 25% of girls and 17% of boys have witnessed online harassment
 - 51% of all teens have had negative experience with social networking
 - 16% said someone posted an embarrassing photo of them
 - 12% said someone hacked their account

Cyberbullying

- Rehtaeh Parson, a seventeen-year-old girl from Nova Scotia, committed suicide after she was sexually assaulted by four boys at a party and a photo of the incident was subsequently circulated.



- New legislation was enacted in Nova Scotia, the Cyber-safety Act, in response to the seventeen-year-old's suicide.
- The Act was later struck down by the courts as violating section 2 and 7 of the Canadian Charter of Rights and Freedoms and therefore, unconstitutional.

Drawbacks of Social Media in Education Cont'd

- **Bad publicity**
 - Employee's and student's private accounts can be linked back to the educational institution



- **Privacy/Confidential Information Leaks**
 - Pictures, personal information, confidential employer information

Social Media in the Workplace Gone Wrong

Winnipeg Free Press: Nurse guilty for complaining on Facebook about grandparents care

- Saskatchewan nurse found guilty of professional misconduct for a Facebook post she made critical of the quality of care her grandfather received
- Said her grandfather spent a week in palliative care before he died, and said both of her grandparents received “subpar care” for many years, before issuing a call for nurses to do better for seniors
- Saskatchewan Registered Nurses Association said it doesn’t want to “muzzle” nurses from using social media, but said that nurses must conduct themselves “professionally and with care”
- Case is going before a penalty hearing where the nurse could be expelled or suspended from the association



Social Media in Politics



Calgary MLA Sandra Jansen was the victim of Cyberbullying. Jansen received a “litany of demeaning and despicable comments on Twitter and Facebook, including:

- "You are both a disgrace to Alberta."
- "Lying bitches."
- "Now you have two blond bimbos in a party that is clueless."
- "Another useless tit goes NDP."
- "Dead meat."
- "Sandra should stay in the kitchen, where she belongs."
- "Fly with the crows and get shot."
- "Dumb broad. A good place for her to be is with the rest of the queers."

Developments in the Law

Common law has recently expanded options available to victims of revenge porn: Doe 464533 v D.

- Court awarded damages of \$100,000 to the ex-girlfriend of an Ontario man who posted an intimate video of her on a pornography website without her knowledge and consent.

The Intimate Image Protection Act (the “IIPA”)

- Came into force in January of 2016.
- The *IIPA* explicitly recognizes the tort of “non-consensual distribution of intimate images”, allowing a victim to sue perpetrators in civil court if they share intimate images of the victim without his or her consent
- Manitoba is the first province in Canada to enact legislation of this kind

Developments in the Law

- The ***Criminal Code of Canada*** was amended in 2015 (pursuant to the Federal *Protecting Canadian from Online Crime Act*) such that it now includes a distinct provision that criminalizes the act of knowingly distributing intimate images of a person without that person's consent.
 - *Criminal Code of Canada* s. 162.1
- **162.1 (1) Everyone who knowingly publishes, distributes, transmits, sells, makes available or advertises an intimate image of a person knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that person gave their consent to that conduct, is guilty**
 - (a) of an indictable offence and liable to imprisonment for a term of not more than five years; or
 - (b) of an offence punishable on summary conviction.

Developments in the Law

- The first charge and conviction under this offence occurred here in Manitoba.
- A Winnipeg man was sentenced to 90 days in jail after he admitted to posting three explicit photos of his ex-girlfriend on Facebook for allegedly cheating on him.

The Public Schools Act

- **Cyberbullying has been integrated into the Act:**

Characteristics and forms

1.2(2) Bullying

- (a) characteristically takes place in a context of a real or perceived power imbalance between the people involved and is typically, but need not be, repeated behaviour;
- (b) may be direct or indirect; and
- (c) may take place
 - (i) by any form of expression, including written, verbal or physical, or
 - (ii) by means of any form of electronic communication — also referred to as cyberbullying in section 47.1.2 — including social media, text messaging, instant messaging, websites or e-mail.

The Public School Act

- **The Act places a positive duty on an employee of a school board, school division or district and any person who has care and charge of one or more pupils during the prescribed school-approved activity, to report cyberbullying:**

Expanded duty to report cyberbullying

47.1.2(1) A person who is subject to a duty under subsection 47.1.1(1) must, if they become aware that a pupil of a school may have

- (a) engaged in cyberbullying; or
- (b) been negatively affected by cyberbullying;

report the matter to the principal of the school as soon as reasonably possible.

Attis v New Brunswick School District No. 15

- Leading case in Canada regarding discipline for teacher's off-duty conduct
- Malcolm Ross was a teacher in NB who regularly made anti-Semitic comments in his off-duty time
- Communicated his racist and discriminatory views by authoring 4 books, letters to a local newspaper, and by participating in a local TV interview
- A Jewish parent filed a complaint with the New Brunswick Human Rights Commission, alleging that the school board discriminated against him and his children by employing Mr. Ross.
- A Board of Inquiry agreed and directed the school board to place Mr. Ross on unpaid leave, appoint him to a non-teaching position when one arose, and terminate him if no non-teaching position became available
- The SCC upheld this order.

Attis v New Brunswick School District No. 15

- The Court developed a test to determine whether an educators' off-duty conduct warrants discipline up to and including termination
- The Test: did the educators' off-duty conduct "impair his/her ability to fulfill his/her teaching position"?
- Court held that there are two kinds of impairments:
 1. Impairment to perform the specific job – for which direct evidence is required; and
 2. Impairment in a wider sense, whereby off-duty conduct could or would give rise to public concern, unease and distrust of his/her ability to perform his employment duties.

Attis v New Brunswick School District No. 15

Teachers are held to a higher standard

Justice LaForest of the SCC stated:

- Teachers “must be perceived to uphold the values, beliefs and knowledge sought to be transmitted in the school system”
- “Teachers are inextricably linked to the integrity of the school system, and their conduct bears directly upon the community’s confidence in the public school system as a whole”
- “It is on the basis of the position of trust and influence that we hold the teacher to high standards both on and off duty, and it is an erosion of these standards that may lead to a loss in the community of confidence in the public school system.”

Re Crawford (BC)

- Teacher was found to have inadequately supervised her students while on a trip to Ireland with a school sports team
- Teacher spent much of her time sightseeing with her son
- Teacher made the following posts on Facebook:
 - “13 great days then a couple of idiots decide to F it up”
– referring a student who was injured during a game
 - “Let’s get drunk on the last night in Ireland!! Sounds like a great idea!!!”

Re Crawford (BC)

Discipline:

- Suspension without pay for 25 days
- Prohibited from participating in school field trips without written permission from the district
- The College of Teachers resolved the matter by consent
 - Ms. Crawford admitted she had committed professional misconduct, received a reprimand, and agreed to take a course regarding professional boundaries

Ontario College of Teachers v Halliday

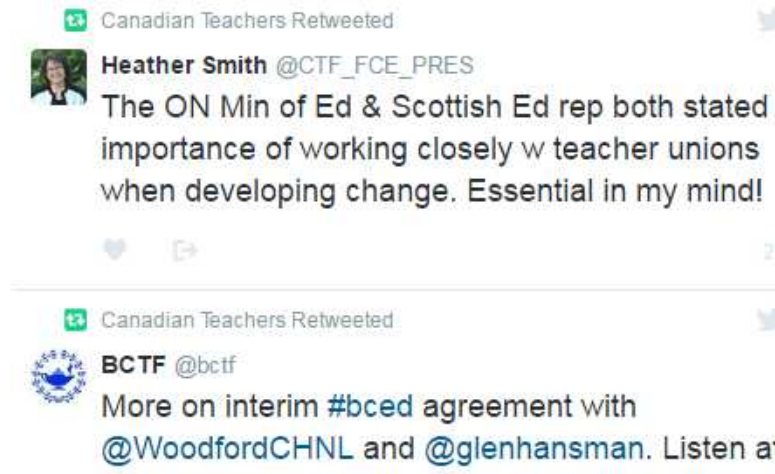
- Teacher attended a “Dirty Disney” party
- Posted a picture of herself dressed in immodest attire as Minnie Mouse with a cigarette in her mouth and a wine glass in her hand, on her Facebook page which clearly identified her as a teacher with the Board, right below the picture

Discipline:

- Suspended without pay for 20 days and pleaded guilty to professional misconduct before the College of Teachers

Canadian Teachers Federation (CTF)

- Firstly – the homepage has a Twitter portal:



- The website provides many resources including a Cyber-conduct and Cyberbullying Policy, Cyber-tips for Teachers, and other Cyberbullying Resources
- Manitoba Teachers Society is a member of the CTF

Canadian Teachers Federation (CTF) - tips

- Familiarize yourself with the networking site's privacy policy and activate your own privacy settings.
- Never “friend” a student on your personal Facebook or Google+ account. You can set up a separate profile to be used only for school, based on the professional teacher-student relationship. This will require using a different email from that which you’ve signed up for your personal account.
- Do not permit images of yourself to be taken and posted on any site without appropriate privacy safeguards; learn how to “untag” photos.
- Never post criticism of—or share confidential information about—colleagues, students or administrators.
- Never post confidential images or information about yourself.
- **Do not post anything on a social media site that you would not post on the bulletin board outside of your classroom.**

Canadian Teachers Federation (CTF) - tips

- **Establish professional boundaries. Do not share any of your personal information with students (e.g. photos), and do not succumb to doing so if students ask**
- **Only communicate with students online in media where a record or transcript of each conversation is automatically made, to have as evidence if any concerns arise down the line. Please note that you must download special apps in both Facebook and Firefox to be able to log Facebook chats.**
- **If you're going to "chat" with students online, ensure you set up "office hours" so that you are free to end the conversation when the time is up. You may also want to set time limits on how long you speak with each student.**
- **Interacting with colleagues online can be a great way to stay connected. However, you should avoid using online conversations to vent frustrations arising either from your professional or personal lives.**

Social Media Policies

- **What is a Social Media Policy?**
 - Assists employers and their employees in navigating the greying line between an individual's private life and their connection to the workplace
 - Policies are becoming increasingly important as the new generation of employees have grown up in a world of social media and use it as their primary vehicle of communication

- **What Can a Social Media Policy do for you?**
 - Regulate employee's use of social media in the workplace, during work hours, but also outside of the workplace, after work hours
 - However, employers must understand that there are still limits as to what behavior can be regulated when the workday has ended

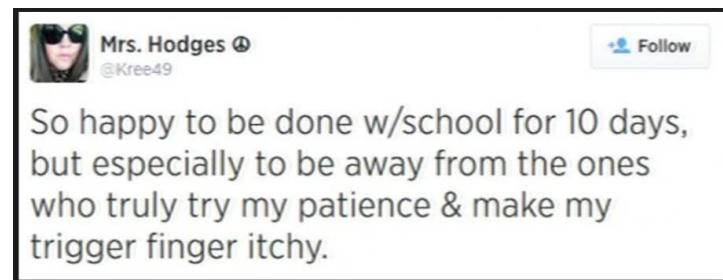
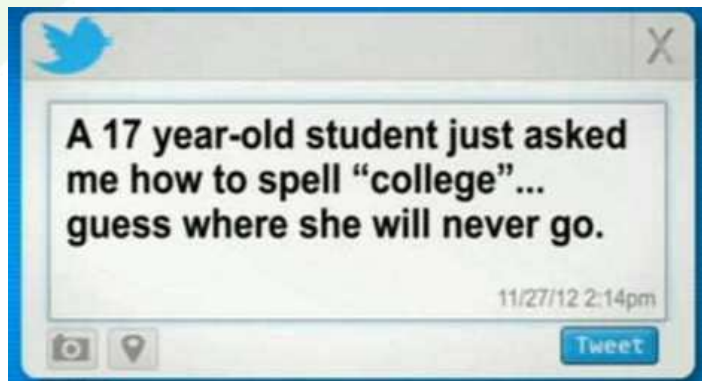
What is Included in a Social Media Policy?

- Policies should provide direction to employees about their use of social media
- Policies should caution employees about the use of technology both at the workplace (when using company emails and computers) and away from the workplace
- Policies should refer to the employer's workplace harassment policies and code of conduct rules
- Policies should advise employees that off-duty conduct can also be subject to investigation and discipline (including discharge)
- Employees must be trained in the application of these policies
- The employer must consistently review and enforce the policies

Discipline for Off-Duty Conduct

- Employment Law (legislation and common law) will be applied in the same fashion for an employee who is terminated with cause on the basis of off-duty conduct
 - Example: Termination for conduct that happens away from the workplace will still depend upon the severity of the misconduct engaged in by the employee, the severity of the harm the employee has caused to the company or co-worker, the employee's work history and employment record, and whether the employee has taken steps to accept the consequences of his/her action and has acted to repair the situation.
- Employees must be made aware that once the private becomes the public, they are at risk of discipline
- Extra care and caution must be taken before a post or tweet is sent

Inappropriate Tweets



Search and Seizure – What can you do?

- Our focus is not the criminal perspective
- Primary Goal: Protection of the students and the educational environment
- Every individual is afforded a certain degree of privacy, known as the expectation of privacy
 - Not unlimited, not impenetrable, it depends on the circumstances and can be set aside in particular circumstances
- *R v M. (M.R.)* – SCC decision governing administrative searches in Canadian schools. Pertains to the search of a student's person but the guiding principles apply to property searches as well.

R v M. (M.R.)

- The court discussed the tension between protecting the students and the school and a students expectation to privacy:

“On one hand, it is essential that school authorities be able to react swiftly and effectively when faced with a situation that could unreasonably disrupt the school environment or jeopardize the safety of the students.”

[...]

“Yet schools also have a duty to foster the respect of their students for the constitutional rights of all members of society. Learning respect for those rights is essential to our democratic society and should be part of the education of all students. These values are best taught by example and may be undermined if the students' rights are ignored by those in authority. How should the appropriate balance of these values be achieved?”

R v M. (M.R.) – student search & seizure

- The court noted that the unique circumstances of the school environment placed significant restrictions on a student's reasonable expectation of privacy:

“Students know that their teachers and other school authorities are responsible for providing a safe environment and maintaining order and discipline in the school. They must know that this may sometimes require searches of students and their personal effects and the seizure of prohibited items. It would not be reasonable for a student to expect to be free from such searches. A student's reasonable expectation of privacy in the school environment is therefore significantly diminished.”

[emphasis added]

R v M. (M.R.) – student search & seizure

Justice Cory summarized the following approach to allow school authorities to deal quickly and effectively with breaches of school regulations and disciplinary problems to provide a safe and positive learning environment for all students:

- (1) A warrant is not essential in order to conduct a search of a student by a school authority.
- (2) The school authority must have reasonable grounds to believe that there has been a breach of school regulations or discipline and that a search of a student would reveal evidence of that breach.
- (3) School authorities will be in the best position to assess information given to them and relate it to the situation existing in their school. Courts should recognize the preferred position of school authorities to determine if reasonable grounds existed for the search.

R v M. (M.R.) – student search & seizure

(4) The following may constitute reasonable grounds in this context: information received from one student considered to be credible, information received from more than one student, a teacher's or principal's own observations, or any combination of these pieces of information which the relevant authority considers to be credible. The compelling nature of the information and the credibility of these or other sources must be assessed by the school authority in the context of the circumstances existing at the particular school.

Valid student searches

- Purpose of the search is key
 - school authorities can conduct searches to enforce valid school rules and regulations that promote safe, healthy, respectful and civil learning communities.
- Who owns the device?
 - Is it a school owned device? – Policy should clearly set out that students have no expectation of privacy with respect to their use of school owned electronic devices
- The search must be conducted within the ambit of the “searchers” administrative authority
 - Cannot act as agents of the police

R v Cole – teacher search & seizure

- A high school teacher faced charges of child pornography and unauthorized use of a computer contrary to the *Criminal Code of Canada* following consecutive searches by school and police authorities
- Images were found on a laptop that had been provided to Mr. Cole by the employer
- While conducting maintenance activities, a technician discovered on the teacher's laptop a hidden folder with nude and partially nude photographs of a female student

R v Cole – teacher search & seizure

- Justice Fish stated the following with respect to Canadians' expectation of privacy re electronic devices:

“Computers that are reasonably used for personal purposes -- whether found in the workplace or the home -- contain information that is meaningful, intimate, and touching on the user's biographical core. *Vis-à-vis* the state, everyone in Canada is constitutionally entitled to expect privacy in personal information of this kind. While workplace policies and practices may diminish an individual's expectation of privacy in a work computer, these sorts of operational realities do not in themselves remove the expectation entirely: The nature of the information at stake exposes the likes, interests, thoughts, activities, ideas, and searches for information of the individual user.”

[emphasis added]

R v Cole – teacher search & seizure

- The School Board's Policy and Procedures that governed the use of Mr. Cole's work-issued laptop allowed for incidental personal use of the Board's information technology. The policy indicated that teachers' email correspondence remained private, but subject to access by school administrators if specified conditions were met.
- **Lesson:** Include in Social Media Policy: zero expectation of privacy with respect to devices owned by the school board.

What if inappropriate conduct is stored on a personal device?

- **No cases have been reported with these facts from an educational standpoint**
- **Protect the student and the educational environment!**
 - School authorities have a moral and legal obligation to protect students and staff while promoting an environment conducive to learning as well as respect for others.
- **Call legal counsel!**

Social Media Policies for Students

- Much like employee's, students use of social media, both during school hours, and outside school hours can be regulated by a social media policy
- The line between a student's personal social media account and the connections the student has to the school can be even more faint than that of an employee
- Students are bound by a code of conduct
- Administrators who receive reports of inappropriate activity/content can be given the administrative authority to access a student's account to assess whether the activity/content contravenes the code of conduct
- Disciplinary action may follow such an assessment

Examples of Existing Policies – St. James Assiniboia School Division – Teachers

- Cautions that when teachers use social media platforms as a learning tool, compliance with terms and conditions of the service being utilized must be observed

Examples of Existing Policies – St. James Assiniboia School Division – Teachers Cont'd

- Requirements for social media use
 - Use must comply with all laws and division policies
 - Retweets, likes, favorites, etc. are perceived as endorsements – these types of interactions must be done with care
 - School division logos, photographs of co-workers and photographs of students cannot be posted without obtaining appropriate consent
 - If employee joins student group on social media, the employee is required to maintain appropriate student-teacher relationship

Examples of Existing Policies – St. James Assiniboia School Division – Teachers Cont'd

- Failure to comply with policy can lead to discipline up to and including termination
- Employees will be held responsible for disclosure of confidential information (purposeful or inadvertent) that violates privacy rights or other rights of a third party
- Employees are instructed to limit public access to their personal social media accounts and are encouraged to create a separate professional account to interact with the community in their capacity as an employee
- Employees are held to a higher standard of accountability and personal responsibility by virtue of their position
- Division reserves the right to monitor employees public website or weblog at any time without consent of previous approval.
- Where applicable, employees may be asked to disclose to the Division the existence of and to provide the Division with access to an employee's private website or weblog or other personal social media network as part of any investigation or disciplinary process

Examples of Existing Policies – St. James Assiniboia School Division - Students

- The Policy is not as detailed or onerous as the teacher guidelines
- Focuses on educating students on the appropriate use of social media
- Teachers are not permitted to direct students to create personal accounts on public social media sites without authorization from the Division and parents.
- Accountability: students will be held accountable for any information posted on social media sites or any interactive online services if it negatively affects the School Division or others. Using either Division-owned or personal devices.
 - Reaches into the personal lives of students to prevent cyberbullying and bad publicity that may be caused by students interactions with social media during or outside of school hours

Examples of Existing Policies – St. James Assiniboia School Division – Students Cont'd

- **Guiding Principles:**
 - Be aware
 - Be safe
 - Be respectful
 - Be honest
 - Be an ambassador
 - Be healthy

Examples from Existing Policies - Winnipeg School Division – Teachers and Students

- Responsible use of Technology and Social Media
- Disciplinary Clause: [...] Division may impose disciplinary measures for conduct that occurred throughout the school day or after school hours, as well as off school property where there is evidence on an online threat or intimidation through the internet including social media
- Superintendents are obligated to ensure that each school principal has incorporated the responsible use guidelines into each schools code of conduct
- “Responsible digital citizens” – norms of responsible online behavior, student rights, responsibilities and understandings of the effects of technology including risks, safety and security as they apply to online spaces including inappropriate conduct, cyberbullying and ethical issues such as copyright and plagiarism

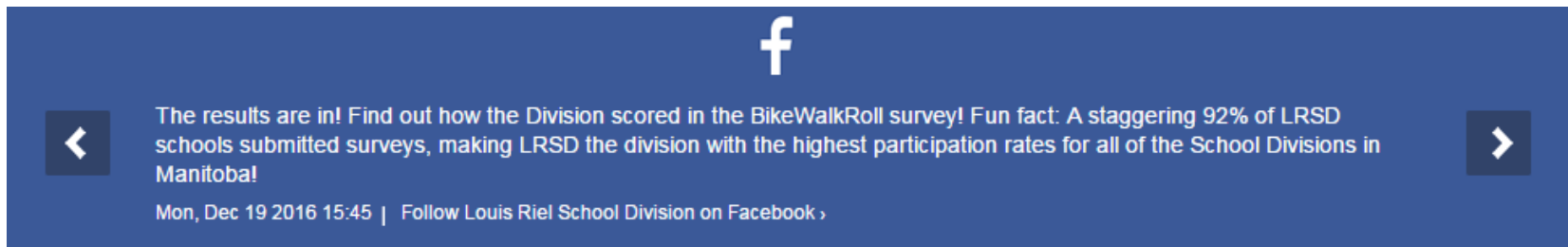
Examples from Existing Policies - Winnipeg School Division – Teachers and Students Cont'd

- **Privacy and Discipline**

- Technology staff can access individual staff and/or student accounts with the approval of the Chief Superintendent if inappropriate activity or content has been reported
- Any violation of the policy by staff and students may result in disciplinary measures
- Administration may monitor, audit, intercept review, screen, edit, delete, remove, material created or stored on Division devices
 - More limited in reach into personal accounts used on personal devices of teachers and students

Examples from Existing Policies – Louis Riel School Division – Teachers/Staff

- Of note, the bottom of the Louis Riel School Division website has a ticker that shows tweets and Facebook posts by the Division to the community



- The website also contains a “Share” tab that allows web site users to access the Division’s Facebook and Twitter pages

Examples from Existing Policies – Louis Riel School Division – Teachers/Staff

- Policy explicitly states that staff have no expectation of privacy when using the Division's facilities
 - “Users consent to the Division monitoring, auditing, intercepting, reviewing, screening, editing, deleting, removing, collecting, using, storing and disclosing personal, proprietary or confidential information of the user to determine and ensure compliance with the regulations”
- **Note:** The policy expressly limits the zero expectation of privacy to when teachers and staff are using the Division's facilities

Examples from Existing Policies – Louis Riel School Division – Teachers/Staff Cont'd

Enforcement Procedure:

- If the director of information systems reasonably believes that a user has breached the guidelines, the director will, in consultation with the superintendent of schools, be authorized to investigate that persons user information to determine if a breach has occurred
 - “A violation of these guidelines may result in disciplinary action, including without limitation possible termination of access rights to facilities, reprimand, suspension or termination of employment, and other legal action”

Examples from Existing Policies – Louis Riel School Division – Students

- Same clause regarding no expectation of privacy as is included in the Teacher/Staff policy

Enforcement Procedure

- Violation may result in disciplinary action including, without limitation, possible reprimand, suspension or termination of access privileges to the facilities, suspension or expulsion from the school division and/or appropriate legal action
- **Separate policy for students from Kindergarten to Grade 3**
 - Uses simple language in the form of pledges for the use of the computer facilities that begin with the phrase: “I will not”

Responding to Inappropriate Social Media Activity/ Content

- 1. Protect the welfare of students;**
- 2. Have a Social Media Policy in place;**
- 3. Consult legal counsel;**
- 4. Have enforcement procedures within policy that permit investigation;**
- 5. Conduct investigation;**
- 6. Determine whether breach of code of conduct, workplace harassment policy or term of employment agreement was breached;**

Responding to Inappropriate Social Media Activity/ Content Cont'd

7. Refer to disciplinary guidelines in policy;

6. Determine appropriate discipline based on the following factors:

- severity of the misconduct engaged in by the employee/student;
- severity of the harm the employee/student has caused to the company or co-worker/to another student, teacher or staff member;
- employee's work history and employment record / student's disciplinary record; and
- whether the employee/student has taken steps to accept the consequences of his/her action and has acted to repair the situation.

Social Media Policy Suggestions

- **Policy should include:**
 - Broad definition of 'social media'
 - Link the policy with the workplace harassment policies and code of conduct
 - Caution to employees and students that inappropriate social media activity engaged in at work and outside of work, on work devices, and on personal devices may be subject to disciplinary action
 - Education on appropriate social media practices
 - Separate personal and professional accounts
 - Privacy settings on personal accounts
 - Maintaining an appropriate student-teacher relationship at all times

Social Media Policy Suggestions Cont'd

- **Policy should include:**
 - Zero expectation of privacy in respect of school provided devices
 - Investigatory powers into employees personal and professional social media accounts if inappropriate activity/content is reported
 - Enforcement procedures that allows for varying degrees of discipline up to termination (teacher) and expulsion (student)

Questions?

FEEL FREE TO CONTACT US

Paul K. Grower
Fillmore Riley LLP
1700 - 360 Main Street
Winnipeg, Manitoba
R3C 3Z3

Telephone: (204) 957-8369
Facsimile: (204) 954-0369
E-Mail: pgrower@fillmoreriley.com
Web Site: www.fillmoreriley.com

Keith A. Senden
Fillmore Riley LLP
1700 – 360 Main Street
Winnipeg, Manitoba
R3C 3Z3

Telephone: (204) 957-8355
Facsimile: (204) 957-0355
E-mail: ksenden@fillmoreriley.com
Web Site: www.fillmoreriley.com