



Social Media and the Law

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District Use v. Personal Use

- **What's the difference?**
- **District use**
- Created for the district
- Used as a way to communicate with parents, staff, students and community
- Represents the district



District Use v. Personal Use

- **Personal use**
 - Created only for personal use
 - Used as a way to communicate with family and friends
 - Contains personal content/information
 - Represents you
 - Who are you accepting as friends?



District Use v. Personal Use

- Your **personal page** may be considered a public record depending on the content
 - What is the content of the post?
 - Is the post or discussion related to the district or your job?
- **Use privacy settings**



Public Records and Social Media

- **Public Records** defined RC 149.43(A)(1):
 - Records kept by any public office
- **Records** defined RC 149.011(G):
 - Any document, device or item
 - Regardless of physical form or characteristic including **an electronic record (defined in RC 1306.01)**
 - Created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions
 - Which serves to document the organization, functions, policies, decisions, procedures, operations or other activities of the office



Public Records and Comments

- What about comments made through social media?
- Creating a forum
 - Inappropriate content/language
 - Disclaimers
 - External internet sites, advertising, endorsements
- Removing comments



Records Retention and Social Media

- If the post is considered a record, district needs to maintain it pursuant to records retention schedule
- **Analyze** the content of the post — look beyond the medium
- Official copy? Secondary copy?



Records Retention and Social Media

- Ways to capture content for records
 - Tools developed: third-party tools, in-house applications, social media platform tools
- **Remember look to the content**
- More information: *Ohio Electronic Records Committee*



Ohio's Open Meetings Law

- Meetings defined RC 121.22
- Any prearranged
- Discussion
 - An exchange of words, comments or ideas between members of a public body
- About public business
- By a majority of the board
 - Are a majority of the board members responding to the posts?
 - A succession of posts between several board members may violate Ohio's Open Meetings Law



Ohio's Open Meetings Law

- Public bodies and officials must conduct business and take official action in meetings open to the public
- School board members must be present in person to be considered part of a quorum or to vote
- What about electronic meetings?



HIPAA

- Health Insurance Portability and Accountability Act
- Protects an individual's personal health information
- Don't use the district social media page as a way to post student, employee or another individual's health information



FERPA

- Family Educational Rights and Privacy Act
- Protects from disclosure personally identifiable information in a student's education record
 - Those records directly related to a student and maintained by an educational agency
- What about posting photographs, videos and awards?
- Annual notice
- Consent



Copyright Law

- Copyright Act may be triggered when posting text, photographs or videos
- Protects original works that are in any tangible medium of expression
- Doesn't apply to ideas, procedures, processes, concepts, etc.



Copyright Law

- Provides exclusive rights to copyright owners
 - Reproduce the copyrighted work
 - Prepare derivative works
 - Distribute copies
 - Display the copyrighted work
 - Perform the copyrighted work



Copyright Law

- Fair use of copyrighted work isn't an infringement of copyright including reproduction when used for:
 - Criticism
 - Comment
 - News reporting
 - Teaching
 - Scholarship
 - Research
- Look at factors to determine fair use



Copyright Law

- Fair use factors to consider:
 - Purpose and character of use
 - Nature of the copyrighted work
 - Amount and substantiality of the portion used regarding the copyrighted work as a whole
 - Effect of the use or value of the copyrighted work



Do's

- Keep district policies updated
- Be aware of who you're accepting as friends
- Review terms of use
- Always use good judgment
- Have a point person monitor the district's social media page



Don'ts

- Don't post inappropriate, vulgar, etc. comments/posts
- Don't use the district's social media page as a meeting method
- Don't post confidential information
- Don't violate the law



Questions?

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