

## EMPLOYEE & STUDENT MISUSE OF TECHNOLOGY

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### Misuse by Students

- Off-campus cyberbullying



- Sexting




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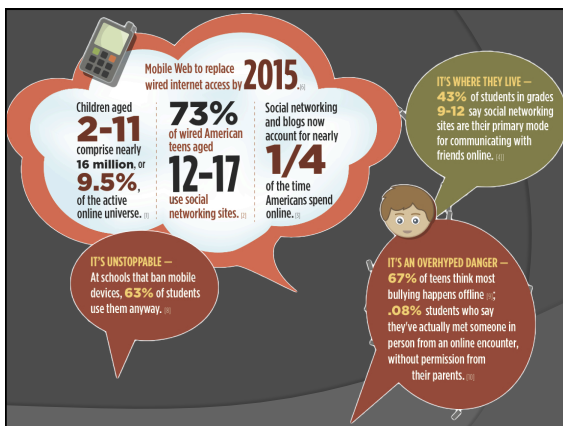
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## Cyberbullying --

- Did speech occur on or off campus?
- If imposing discipline for off-campus speech, must meet **one** of these:
  - Nexus to school
  - Material or substantial disruption
  - Direct or immediate threat of danger to the safety of others

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## Bullying vs. Drama ???

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## Cyberbullying: May Madness




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### Response Checklist

- Immediate threat of harm?
- Mandatory reporting duty?
- Does a district policy or procedure apply?
- Investigate
- Provide support to involved students

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### Cyberbullying: Threats

- Wynar v. Douglas County School District (NV)
  - Threatening Myspace messages around 4/20
    - "its pretty simple/ i have a sweet gun/ my neighbor is giving me 500 rounds/ dhs is gay / ive watched these kinds of movies so i know how NOT to go wrong/ i just cant decide who will be on my hit list / and thats totally deminted and it scares even myself"
    - [referring to a classmate] "no im shooting her boobs off/ then paul (hell take a 50rd clip) / then i reload and take out everybody else on the list / hmm paul should be last that way i can get more people before they run away..."
  - Expelled for 90 days
  - Parents sued for constitutional violations as well as negligent infliction of emotional distress

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### Cyberbullying: Threats

- Contact law enforcement\*
- Conduct school investigation in conjunction with law enforcement
- Notify parent of any student and/or teacher threatened within 12 hours of discovering threat. ORS 339.327
- Determine if violation of school policy occurred.
- Impose appropriate, consistent discipline.

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## Twitter Basics



- **Mention:** @janesmith!"
- **Hashtag:** It is not "the pound sign"!
  - This is the category or topic of your Tweet.



**Lake Oswego Schools** @LOSD 18m  
Oak Creek in lockdown due to police action at Westlake Park. All students safe. Students will be held until lockdown lifted.  
Retweeted by KGW News  
Collapse Reply Retweet Favorite More  
16 RETWEETS  
3:12 PM - 1 May 13 · Details

More at support.twitter.com

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## Twitter in School News

- Syracuse, NY - Cicero-North Syracuse High School
- Pat Brown - Senior 18 y/o
- Started #s\*\*tCNSshouldcut on Twitter & rec'd cutting Exec Principal position
- Brought to office, suspended for 3 days for starting media riot
- Social revolt, national attention -----  
Infringement?

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## www.Google.com/Alerts

**Alerts**

Search query:

Result type:

How often:

How many:

Deliver to:

**CREATE ALERT** Manage your alerts

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## Cyberbullying: Off Campus



- ◉ Comply with cyberbullying policy JFCF:
  - Complete prompt investigation
  - Document findings, especially substantial disruption to school environment
    - ◉ See [www.cyberbullying.us](http://www.cyberbullying.us) for report form
  - Discipline if warranted
  - Notify complainant of results of investigation

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## Sexting

- ◉ Sexting, v: **(a combination of sex and texting) is the act of sending sexually explicit messages or photos electronically, primarily between cell phones.**




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## Sexting Response



- ◉ Does the conduct violate policy? Law?
- ◉ Contact law enforcement if nude pictures/videos (mandatory reporting law)
  - Seal in envelope
  - Sign and date on envelope closure
  - Lock in secure place until law enforcement arrives
- ◉ DO NOT view or transfer child pornography using district equipment!!!

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## Sexting Investigation

- ◉ If school (not law enforcement investigation)
  - What is the phone number, email, etc. involved?
  - Who knows about it? Who has seen it?
  - Nail down initial statements
  - Get help from tech department to preserve records
  - Contact parents of involved students

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## When is it ok to search a student's cell phone?



- ◉ Reasonable suspicion of violation of school policy or law
  - Credible tip from another student
- ◉ Search limited in scope
  - Don't search pictures if you're looking for a text message related to a drug deal
  - Don't search if phone only confiscated because student had it out in class
- ◉ Seeing something in plain view ≠ search

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## Preventing Student Misuse

- Educate parents, staff, teachers on dangers of misuse of technology
  - Letters home, educational forum
- Clear policy uniformly enforced & communicated to students & parents
  - Prohibit....obscene, pornographic or otherwise illegal visual depictions or visual recordings of sexually explicit conduct...on school property or transportation
- Impose consequences equally

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## Employee Technology Misuse

- Blogging or Facebook posts by school employee
- Excessive internet use during school time
- Social media grooming

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## Employee Facebook Posts

- New Jersey App. Court upholds district's removal of teacher for Facebook post
  - 15-year veteran 1<sup>st</sup> Grade teacher – "I'm not a teacher — I'm a warden for future criminals!"
  - Principal asked her of comments – described teacher as "unrepentant"
  - Appealed that comments weren't racist, but based on frustrations with bad behavior of students
  - Judge rejected her appeal, upholding termination
  - Comments were "intemperate and vituperative", and cooperation with parents impossible.

In re Tenure Hearing of Jennifer O'Brien, No. A-2452-11T4 (N.J. Super. Ct., App. Div. Jan. 11, 2013)

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## Employee Facebook Posts

- New York teacher reinstated; court adopts “just venting” defense
  - “After today, I am thinking the beach sounds like a wonderful idea for my 5th graders! I HATE THEIR GUTS! They are the devils (sic) spawn!”
  - Asked friend to take blame for post on her Profile – ultimately admitted she wrote comment(s)
  - Court sighted her unblemished record, 15 years of service, show of remorse, venting after hard day in classroom and the deletion of the post within 3 days.
  - Court concluded were “clearly inappropriate” but only posted to her Friends, not published to the general public nor any students/parents

Rubino v City of New York, 2013 NY Slip Op 03272

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How would this play out in Oregon?




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## Employee Facebook Posts



- Conduct investigation with help of technology department
- Do not regularly review staff/student Facebook pages
- Remember 1<sup>st</sup> Amendment Issues
- TSPC report
- Directive or discipline

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## Facebook & Staff

Don't ask me to round up from an 88% when you haven't been giving me your best effort.... Asking me three times in one day is not going to help your case either. Ugh! 2% at this point is a lot more than you realize. (End of rant.)

Like · Comment · 7 hours ago near [location] · [location]

[name] and 22 others like this.

[name] You are doing semester grades too aren't you!?!  
7 hours ago · Like

[name] Oh yes... And the grades post immediately online. So, students tend to become a bit OCD. Lol  
6 hours ago via mobile · Like · [location] 1

[name] Unbelievable! Kids today! Today, a guy on the street in his 20s asked my dad for \$1 to play pool. WTH! My dad told him to get a job. Lol! Entitlement.  
6 hours ago via mobile · Like

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## TSPC Report

- Gross Neglect of Duty:
  - Knowing and substantial unauthorized use of employment time or school resources for private purposes;
  - Any sexual conduct with a student;
  - Sexual harassment;
  - Knowing and unauthorized use of school computer equipment to receive, store, produce or send sexually explicit materials;

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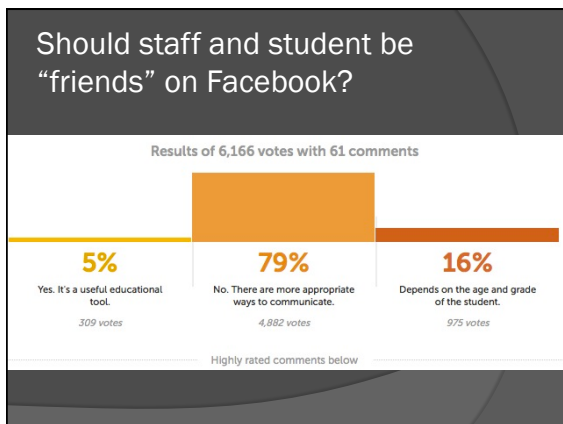
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## Should staff and student be "friends" on Facebook?




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## Employee-Student Facebook




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## Employee- Student Sexual Conduct



- Conduct investigation with help of technology department.
- Comply with requirements of sexual conduct law (ORS 339.370-339.400)
- Contact law enforcement, if necessary
- TSPC report, if warranted
- Directive or discipline, if warranted.

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## Excessive Internet Use

- Students complain teacher on computer or cell phone "all the time".
  - Use software to take repeated screenshots of teacher's computer
  - Obtain list of websites visited from IT department
  - Issue directive regarding computer/phone use

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## Emerging Tech Issues

- Knockout Videos (SmackCam)
- Radio Chipping (HB2386 -2013)
- Snapchat
- Employer access to Facebook account (HB2654 -2013)

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## Questions?

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- Detective Micah Smith
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