



LEGAL UPDATE: FALL 2010

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I. REGULATING SOCIAL MEDIA:

Employee speech on social networking sites (*e.g.*, Facebook, MySpace, LinkedIn, Twitter) presents challenges for school administrators and other supervisors. We need to regulate employee speech if it affects district operation, but we must take care to respect employee free speech rights. On balance, school administrators have significant authority to regulate employee speech in such settings.

A. Constitutional Principles:

[*Pickering v. Board of Education*](#), 391 U.S. 563 (1968).

In [*Pickering*](#), a teacher wrote to the newspaper and was critical of how the superintendent and the board of education had handled past proposals to raise revenue for the schools. When he was fired, the Illinois Supreme Court upheld the action. The United States Supreme Court reversed, however, ruling that teachers (and other public employees) have the right under the First Amendment to speak out on matters of public concern unless such speech disrupts school operation. The protection applies even if the speaker is incorrect in his statements unless there is proof that such false statements were made recklessly or maliciously. Compare *McAuliffe v. Mayor, City of New Bedford*, 155 Mass. 216 (1892): “Petitioner may have a constitutional right to talk politics, but he has no constitutional right to be a policeman.”

[*Connick v. Myers*](#), 461 U.S. 138 (1983).

In [*Connick*](#), an assistant district attorney, who was about to be transferred over her objection, circulated a questionnaire about office operations, created a “mini-insurrection,” and was fired. With one exception (a question on whether employees felt pressured to work on political campaigns), the Court held that the employee was not speaking on a matter of public concern but rather on a matter of personal grievance (the unwanted transfer), and her actions were not protected under the First Amendment.

In subsequent years, guiding principles have emerged on when speech by public employees will be protected. First, the speech must relate to a matter of public concern; statements on purely private concerns are not protected by the First Amendment. Compare [Rankin v. McPherson](#), 483 U.S. 378 (1987) (police department clerk was fired for saying “The next time they go for him, I hope they get him” after President Reagan was shot; comment related to a matter of public concern, President Reagan’s policies toward minorities, and was thus protected speech).

Second, speech expressed as part of one’s job duties is not protected by the First Amendment, even if it relates to matters of public concern. [Garcetti v. Ceballos](#), 547 U.S. 410 (2006). There, an assistant district attorney claimed that his free speech rights were violated when he suffered an adverse employment action after an earlier draft of a report he wrote was used to advantage by a criminal defendant. By a 5-4 vote, the Court held that such speech has no protection under the First Amendment: “[W]hen public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.”

Finally, even if a statement would otherwise be protected, speech that is damaging to the operation of the public enterprise is not protected from regulation. In [Connick](#), the Court held that the free speech interests of public employees must be balanced against the legitimate interest of public agencies to operate efficiently. If the speech is a serious disruption, the employer can prohibit it and/or take related disciplinary action against the employee. Following [Connick](#), courts have identified the following factors that must be considered in determining whether speech by a public employee is protected:

- the need for harmony in the public work place;
- whether there is a need for a close working relationship between the speaker and the persons who could be affected by the speech;
- the time, manner, and place of the speech;
- the context in which the dispute arose;
- the degree of public interest in the speech; and
- whether the speech impeded the ability of the other employees to perform their duties.

Roberts v. Van Buren Public Schools, 773 F.2d 948 (8th Cir. 1985)

B. Application of these principles to social networking sites:

- When does a posting relate to a public concern?
 - “My principal is mean.”

- “Tom Teacher is getting on my nerves.”
- “The Board caved into pressure in making its budget proposal.”
- When does a posting on a matter of public concern cause disruption?
 - “The Superintendent should stop with the new initiatives and build on what we have.”
 - “The Board of Education is wasting taxpayer money on lavish dinners.”
 - “Children with disabilities cannot get appropriate services with the budget as adopted.”
- When does a posting violate privacy rights?
 - “My principal is going after Sally again with a new intensive assistance plan.”
 - “I went to a PPT today, and the parents wanted the sun, the moon and the stars.”
 - “Our quarterback may be able to pass a football, but he sure can’t pass a test.”
- When does a posting violate appropriate professional boundaries?
 - Friending friends who are colleagues.
 - Friending friends who are parents.
 - Friending parents.
 - Friending students.

II. CONFIDENTIALITY CONCERNS IN INVESTIGATING BULLYING COMPLAINTS:

A. FERPA concerns

1. “Personally-identifiable student information.”
2. Revised regulations (effective January 9, 2009) specifically deal with “Targeted requests”

34 C.F.R. § 99.3 now includes in definition of “personally-identifiable information” the following:

(g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates..

B. Obligations under Conn. Gen. Stat. § 10-222d:

- Enable students to anonymously report acts of bullying to teachers and school administrators and require students to be notified annually of the process by which they may make such reports,
- enable the parents or guardians of students to file written reports of suspected bullying,
- require teachers and other school staff who witness acts of bullying or receive student reports of bullying to notify school administrators in writing,
- require school administrators to investigate any written reports made under this section and to review any anonymous reports, except that no disciplinary action shall be taken solely on the basis of an anonymous report,
- include a prevention and intervention strategy, as defined by section 10-222g, for school staff to deal with bullying,
- provide for the inclusion of language in student codes of conduct concerning bullying,
- require each school to notify the parents or guardians of students who commit any verified acts of bullying and the parents or guardians of students against whom such acts were directed, and invite them to attend at least one meeting,
- require each school to maintain a list of the number of verified acts of bullying in such school and make such list available for public inspection, and, within available appropriations, report such number to the Department of Education, annually and in such manner as prescribed by the Commissioner of Education,
- direct the development of case-by-case interventions for addressing repeated incidents of bullying against a single individual or recurrently perpetrated bullying incidents by the same individual that may include both counseling and discipline,
- identify the appropriate school personnel, which may include, but shall not be limited to, pupil services personnel, responsible for taking a bullying report and investigating the complaint.
- The notification required pursuant to subdivision (7) of this section shall include a description of the response of school staff to such acts and any consequences that may result from the commission of further acts of bullying.

- For purposes of this section, "bullying" means any overt acts by a student or a group of students directed against another student with the intent to ridicule, harass, humiliate or intimidate the other student while on school grounds, at a school-sponsored activity or on a school bus, which acts are committed more than once against any student during the school year. Such policies may include provisions addressing bullying outside of the school setting if it has a direct and negative impact on a student's academic performance or safety in school.

III. **TEXTING, EMAIL AND PRIVACY RIGHTS:**

- A. The Fourth Amendment protects the public from governmental action that constitutes an unreasonable search or seizure.
- B. School districts generally have acceptable use policies that specifically address privacy concerns, by reserving the right to access any such information contained on school computers.
- C. Our reliance on technology is evolving, and so are the rules on privacy expectations:

Brown-Criscuolo v. Wolfe, 601 F.Supp.2d. 441 (D.Conn. 2009):

While the plaintiff-school principal was out of work on medical leave, the Superintendent had accessed the plaintiff's e-mail account and forwarded to his own e-mail account an e-mail and a letter attachment that the principal had written to her lawyer expressing concerns about her job. Among other state and federal claims, the plaintiff asserted that the Superintendent had executed an unreasonable search of her school e-mail account in violation of her Fourth Amendment rights.

In considering Fourth Amendment claims, courts typically begin by asking whether an individual actually has a reasonable expectation of privacy in the area subject to a search. The court concluded that the plaintiff did have a reasonable expectation of privacy in her e-mail account at work, in part because only the employee herself and the district computer system administrators had the password to the plaintiff's e-mail account. The court rejected the Superintendent's argument that, because the district policy allowed for "routine maintenance and monitoring" of the system, the plaintiff could not have had a reasonable expectation of privacy in her e-mail account. The court noted that it was not the Superintendent himself who was responsible for conducting such maintenance or monitoring, but rather a computer system administrator. Significantly, the court also emphasized that there was no evidence that the district actually monitored users' e-mail accounts.

Even if an employee has a reasonable expectation of privacy in the workplace, a search for work-related misconduct will be constitutionally permissible if the search is justified at its inception and is not excessive in scope. In Wolfe, the court concluded that the Superintendent's search was not justified at its inception because the Superintendent did not initiate the search intending to turn up evidence of misconduct on the part of the employee. Rather, the Superintendent had claimed that the search was necessary to ensure that no important e-mails were overlooked during the course of the principal's medical leave.

See also Karen Schill et al. v. Wisconsin Rapids School District, No. 2008AP967-AC (Wisconsin Supreme Court July 16, 2010):

For the reasons set forth, we too now conclude that while government business is to be kept open, the contents of employees' personal e-mails are not a part of government business. Personal e-mails are therefore not always records within the meaning of Wis. Stat. § 19.32(2) simply because they are sent and received on government e-mail and computer systems.

City of Ontario v. Quon, No. 08-1332, 130 S.Ct. 2619 (2010)

Here, the United States Supreme Court considered a complaint concerning a search of messages sent by employees on pagers issued by the City. The City policy provided that pagers were for business related purposes, and that pager messages were not private. The contract with the messaging service limited the number of messages that could be sent, and each month the City was over the limit. Initially, the City simply required that employees reimburse it for the overage fees. However, after months of incurring these extra fees, the Police Chief decided to review the pager usage to determine whether the monthly limit was either too low or too high. The City contacted the pager service provider and obtained transcripts of the messages of two employees who had repeatedly exceeded the limit.

Upon review, the City found that the majority of the messages were not work-related, and that one employee's messages were sexually explicit between himself and his wife, and between himself and his girlfriend. The employees sued the City arguing that their constitutional right to be free from unreasonable searches and seizures was violated. The Supreme Court disagreed and found in favor of the City.

In its decision, the Court recognized that the special needs of an employer may be sufficient to justify searches for work-related misconduct. The Court found that the search was reasonable for two main reasons. First, the search was motivated by a legitimate work related purpose: the desire to assess the monthly usage limit. Second, the search was not overly intrusive: the pagers had been provided by the employer and were not private.

Despite the outcome in favor of this employer, it is uncertain how employee privacy cases will be decided in the future. The Supreme Court emphasized that the reasonableness of searches and seizures turns on the specific facts of each case.

Moreover, the Court expressed concern that the scope of privacy expectations is evolving as we rely increasingly on technology in our daily lives:

The Court must proceed with care when considering the whole concept of privacy expectations in communications made on electronic equipment owned by a government employer. The judiciary risks error by elaborating too fully on the Fourth Amendment implications of emerging technology before its role in society has become clear. *See, e.g., Olmstead v. United States*, 277 U. S. 438 (1928), overruled by *Katz v. United States*, 389 U. S. 347, 353 (1967). In *Katz*, the Court relied on its own knowledge and experience to conclude that there is a reasonable expectation of privacy in a telephone booth. *See id.*, at 360–361 (Harlan, J., concurring). It is not so clear that courts at present are on so sure a ground. Prudence counsels caution before the facts in the instant case are used to establish far-reaching premises that define the existence, and extent, of privacy expectations enjoyed by employees when using employer-provided communication devices.

Rapid changes in the dynamics of communication and information transmission are evident not just in the technology itself but in what society accepts as proper behavior. As one amici brief notes, many employers expect or at least tolerate personal use of such equipment by employees because it often increases worker efficiency. See Brief for Electronic Frontier Foundation et al. 16–20. Another amicus points out that the law is beginning to respond to these developments, as some States have recently passed statutes requiring employers to notify employees when monitoring their electronic communications. See Brief for New York Intellectual Property Law Association 22 (citing Del. Code Ann., Tit. 19, §705 (2005); Conn. Gen. Stat. Ann. §31–48d (West 2003)). At present, it is uncertain how workplace norms, and the law’s treatment of them, will evolve.

IV. SELECTED PROVISIONS FROM PUBLIC ACT 10-111 (EDUCATIONAL REFORM BILL):

Sec. 4. Section 10-151b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) The superintendent of each local or regional board of education shall continuously evaluate or cause to be evaluated each teacher, in accordance with guidelines established by the State Board of Education, pursuant to subsection (c) of this section, for the development of evaluation programs and such other guidelines as may be established by mutual agreement between the local or regional board of education and the teachers' representative chosen pursuant to section 10-153b, continuously evaluate or cause to be evaluated each teacher. An evaluation pursuant to this subsection shall include, but need not be limited to, strengths, areas needing improvement, [and] strategies for improvement ***and***

multiple indicators of student academic growth. Claims of failure to follow the established procedures of such evaluation programs shall be subject to the grievance procedure in collective bargaining agreements negotiated subsequent to July 1, 2004. The superintendent shall report the status of teacher evaluations to the local or regional board of education on or before June first of each year. For purposes of this section, the term "teacher" shall include each professional employee of a board of education, below the rank of superintendent, who holds a certificate or permit issued by the State Board of Education.

(b) Each local and regional board of education shall develop and implement teacher evaluation programs consistent with guidelines established by the State Board of Education, ***pursuant to subsection (c) of this section***, and consistent with the plan developed in accordance with the provisions of subsection (b) of section 10-220a.

(c) On or before July 1, 2013, the State Board of Education shall adopt, in consultation with the Performance Evaluation Advisory Council established pursuant to section 5 of this act, guidelines for a model teacher evaluation program. Such guidelines shall provide guidance on the use of multiple indicators of student academic growth in teacher evaluations. Such guidelines shall include, but not be limited to: (1) Methods for assessing student academic growth; (2) a consideration of control factors tracked by the state-wide public school information system, pursuant to subsection (c) of section 10-10a, as amended by this act, that may influence teacher performance ratings, including, but not limited to, student characteristics, student attendance and student mobility; and (3) minimum requirements for teacher evaluation instruments and procedures.

NOTE: Section 10-220a(b) was amended effective July 1, 2009, to read:

(b) Not later than a date prescribed by the commissioner, each local and regional board of education shall establish a professional development committee consisting of certified employees, and such other school personnel as the board deems appropriate, including representatives of the exclusive bargaining representative for such employees chosen pursuant to subsection (b) of [section 10-153](#). The duties of such committees shall include, but not be limited to, the development, evaluation and annual updating of a comprehensive local professional development plan for certified employees of the district. Such plan shall: (1) Be directly related to the educational goals prepared by the local or regional board of education pursuant to subsection (b) of [section 10-220](#), (2) on and after July 1, 2011, be developed with full consideration of the priorities and needs related to student outcomes as determined by the State Board of Education, and (3) provide for the ongoing and systematic assessment and improvement of both teacher evaluation and professional development of the professional staff members of each such board, including personnel management and evaluation

training or experience for administrators, shall be related to regular and special student needs and may include provisions concerning career incentives and parent involvement. The State Board of Education shall develop guidelines to assist local and regional boards of education in determining the objectives of the plans and in coordinating staff development activities with student needs and school programs.

Sec. 9. Subsection (a) of section 10-151 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(D) Any certified teacher or administrator employed by a local or regional board of education for a school district identified as a priority school district pursuant to section 10-266p may attain tenure after ten months of employment in such priority school district, if such certified teacher or administrator previously attained tenure with another local or regional board of education in this state or another state.

Sec. 16. Section 10-221a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) For classes graduating from 1988 to 2003, inclusive, no local or regional board of education shall permit any student to graduate from high school or grant a diploma to any student who has not satisfactorily completed a minimum of twenty credits, not fewer than four of which shall be in English, not fewer than three in mathematics, not fewer than three in social studies, not fewer than two in science, not fewer than one in the arts or vocational education and not fewer than one in physical education.

(b) [Commencing with classes graduating in 2004, and for each graduating class thereafter] For classes graduating from 2004 to 2017, inclusive, no local or regional board of education shall permit any student to graduate from high school or grant a diploma to any student who has not satisfactorily completed a minimum of twenty credits, not fewer than four of which shall be in English, not fewer than three in mathematics, not fewer than three in social studies, including at least a one-half credit course on civics and American government, not fewer than two in science, not fewer than one in the arts or vocational education and not fewer than one in physical education.

(c) Commencing with classes graduating in 2018, and for each graduating class thereafter, no local or regional board of education shall permit any student to graduate from high school or grant a diploma to any student who has not satisfactorily completed (1) a minimum of twenty-five credits, including not fewer than: (A) Nine credits in the humanities, including not fewer than (i) four credits in English, including composition; (ii) three credits in social studies, including at least one credit in American history and at least one-half credit in civics and American government; (iii) one credit in fine arts; and (iv) one credit in a humanities elective; (B) eight credits in science, technology, engineering

and mathematics, including not fewer than (i) four credits in mathematics, including algebra I, geometry and algebra II or probability and statistics; (ii) three credits in science, including at least one credit in life science and at least one credit in physical science; and (iii) one credit in a science, technology, engineering and mathematics elective; (C) three and one-half credits in career and life skills, including not fewer than (i) one credit in physical education; (ii) one-half credit in health and safety education, as described in section 10-16b; and (iii) two credits in career and life skills electives, such as career and technical education, English as a second language, community service, personal finance, public speaking and nutrition and physical activity; (D) two credits in world languages, subject to the provisions of subsection (g) of this section; and (E) a one credit senior demonstration project or its equivalent, as approved by the State Board of Education; and (2) end of the school year examinations for the following courses: (A) Algebra I, (B) geometry, (C) biology, (D) American history, and (E) grade ten English.

(d) Commencing with classes graduating in 2018, and for each graduating class thereafter, local and regional boards of education shall provide adequate student support and remedial services for students beginning in grade seven. Such student support and remedial services shall provide alternate means for a student to complete any of the high school graduation requirements or end of the school year examinations described in subsection (c) of this section, if such student is unable to satisfactorily complete any of the required courses or exams. Such student support and remedial services shall include, but not be limited to, (1) allowing students to retake courses in summer school or through an on-line course; (2) allowing students to enroll in a class offered at a constituent unit of the state system of higher education, as defined in section 10a-1, pursuant to subdivision (4) of subsection (g) of this section; (3) allowing students who received a failing score, as determined by the Commissioner of Education, on an end of the school year exam to take an alternate form of the exam; and (4) allowing those students whose individualized education plans state that such students are eligible for an alternate assessment to demonstrate competency on any of the five core courses through success on such alternate assessment.

[(c)] (e) Any student who presents a certificate from a physician stating that, in the opinion of the physician, participation in physical education is medically contraindicated because of the physical condition of such student, shall be excused from the physical education requirement, provided the credit for physical education may be fulfilled by an elective.

[(d)] (f) Determination of eligible credits shall be at the discretion of the local or regional board of education, provided the primary focus of the curriculum of eligible credits corresponds directly to the subject matter of the specified course requirements. The local or regional board of education may permit a student to graduate during a period of expulsion pursuant to section 10-233d, if the board

determines the student has satisfactorily completed the necessary credits pursuant to this section. The requirements of this section shall apply to any student requiring special education pursuant to section 10-76a, except when the planning and placement team for such student determines the requirement not to be appropriate. For purposes of this section, a credit shall consist of not less than the equivalent of a forty-minute class period for each school day of a school year except for a credit or part of a credit toward high school graduation earned (1) at an institution accredited by the Department of Higher Education or regionally accredited; or (2) ***through on-line coursework that is in accordance with a policy adopted pursuant to subsection (g) of this section.***

[(e)] (g) Only courses taken in grades nine through twelve, inclusive, shall satisfy this graduation requirement, except that a local or regional board of education may grant a student credit (1) toward meeting a specified course requirement upon the successful completion in grade seven or eight of any course, the primary focus of which corresponds directly to the subject matter of a specified course requirement in grades nine to twelve, inclusive; (2) toward meeting the high school graduation requirement upon the successful completion of a world language course (A) ***in grade six, seven or eight, (B) through on-line coursework,*** or (C) offered privately through a nonprofit provider, provided such student achieves a passing grade on an examination prescribed, within available appropriations, by the Commissioner of Education and such credits do not exceed four; (3) toward meeting the high school graduation requirement upon achievement of a passing grade on a subject area proficiency examination identified and approved, within available appropriations, by the Commissioner of Education, regardless of the number of hours the student spent in a public school classroom learning such subject matter; [or] (4) toward meeting the high school graduation requirement upon the successful completion of coursework at an institution accredited by the Department of Higher Education or regionally accredited. One three-credit semester course, or its equivalent, at such an institution shall equal one-half credit for purposes of this section; (5) ***toward meeting the high school graduation requirement upon the successful completion of on-line coursework, provided the local or regional board of education has adopted a policy in accordance with this subdivision for the granting of credit for on-line coursework. Such a policy shall ensure, at a minimum, that (A) the workload required by the on-line course is equivalent to that of a similar course taught in a traditional classroom setting, (B) the content is rigorous and aligned with curriculum guidelines approved by the State Board of Education, where appropriate, (C) the course engages students and has interactive components, which may include, but are not limited to, required interactions between students and their teachers, participation in online demonstrations, discussion boards or virtual labs, (D) the program of instruction for such on-line coursework is planned, ongoing and systematic, and (E) the courses are (i) taught by teachers who are certified in the state or another state and have received training on teaching in an on-line environment, or (ii) offered by institutions of higher education that are***

accredited by the Department of Higher Education or regionally accredited; or (6) toward meeting the high school graduation requirement upon the successful completion of the board examination series pursuant to section 17 of this act.

[(f)] (h) A local or regional board of education may offer one-half credit in community service which, if satisfactorily completed, shall qualify for high school graduation credit pursuant to this section, provided such community service is supervised by a certified school administrator or teacher and consists of not less than fifty hours of actual service that may be performed at times when school is not regularly in session and not less than ten hours of related classroom instruction. For purposes of this section, community service does not include partisan political activities. The State Board of Education shall assist local and regional boards of education in meeting the requirements of this section.

[(g)] (i) A local or regional board of education may award a diploma to a veteran of World War II, pursuant to section 27-103, who left high school prior to graduation in order to serve in the armed forces of the United States and did not receive a diploma as a consequence of such service.

(j) For the school year commencing July 1, 2012, and each school year thereafter, a local or regional board of education shall collect information for each student enrolled in a public school, beginning in grade six, that records students' career and academic choices in grades six to twelve, inclusive.

Sec. 20. Subsection (g) of section 10-233c of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(g) On and after July 1, 2010, suspensions pursuant to this section shall be in-school suspensions, unless during the hearing held pursuant to subsection (a) of this section, (1) the administration determines that the pupil being suspended poses such a danger to persons or property or such a disruption of the educational process that the pupil shall be excluded from school during the period of suspension, ***or (2) the administration determines that an out-of-school suspension is appropriate for such pupil based on evidence of (A) previous disciplinary problems that have led to suspensions or expulsion of such pupil, and (B) efforts by the administration to address such disciplinary problems through means other than out-of school suspension or expulsion, including positive behavioral support strategies.*** An in-school suspension may be served in the school that the pupil attends, or in any school building under the jurisdiction of the local or regional board of education, as determined by such board.

Sec. 28. (NEW) (*Effective July 1, 2010*)

A local or regional board of education for a school district with a dropout rate of eight per cent or greater in the previous school year, shall establish an online credit recovery program. Such program shall allow those students who are

identified by certified personnel as in danger of failing to graduate to complete on-line coursework approved by the local or regional board of education for credit toward meeting the high school graduation requirement pursuant to section 10-221a of the general statutes, as amended by this act. Each school in the school district shall designate, from among existing staff, an online learning coordinator who shall administer and coordinate the online credit recovery program pursuant to this section.

Sec. 29. Subsection (f) of section 10-221 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(f) Not later than September 1, 1998, each local and regional board of education shall develop, adopt and implement written policies and procedures to encourage parent-teacher communication. These policies and procedures may include monthly newsletters, required regular contact with all parents, flexible parent-teacher conferences, drop-in hours for parents, home visits and the use of technology such as homework hot lines to allow parents to check on their children's assignments and students to get assistance if needed. ***For the school year commencing July 1, 2010, and each school year thereafter, such policies and procedures shall require the district to conduct two flexible parent-teacher conferences for each school year.***

Sec. 31. (NEW) (*Effective July 1, 2010*)

a) For the school year commencing July 1, 2011, and each school year thereafter, each local and regional board of education shall provide an advanced placement course program. For purposes of this section, "advanced placement course program" means a program that provides courses at the high school level for which an advanced placement examination is available through the College Board.

(b) The State Board of Education shall develop guidelines to aid local and regional boards of education in training teachers for teaching advanced placement courses to a diverse student body.

**Series 4000
Personnel**

POLICY ON SOCIAL NETWORKING

The Nutmeg Board of Education recognizes the importance of social media for its employees, and acknowledges that its employees have the right under the First Amendment, in certain circumstances, to speak out on matters of public concern. However, the Board will regulate the use of social media by employees, including employees' personal use of social media, when such use:

- 1) interferes with the work of the Board;
- 2) is used to harass coworkers or other members of the school community;
- 3) creates a hostile work environment;
- 4) breaches confidentiality obligations of Board employees,
- 5) disrupts the work of the Board;
- 6) harms the goodwill and reputation of the Board in the community; or
- 7) violates the law, Board policies and/or other school rules and regulations.

The Nutmeg Board of Education therefore adopts the following guidelines for the use of social media by Board employees.

Definitions:

Social media includes, but is not limited to, social networking sites, such as Twitter, Facebook, LinkedIn, YouTube, and MySpace.

The Nutmeg Board of Education and the Nutmeg Public Schools includes all names, logos, buildings, images and entities under the authority of the Nutmeg Board of Education.

Rules Concerning Personal Social Media Activity

1. An employee may not mention, discuss or reference the Board or its individual schools, programs or teams on personal social networking sites, unless the employee also states that the post is the personal communication of employee and that the views

posted are the employee's alone and do not represent the views of the Board of Education or its Administration.

2. Employees must refrain from mentioning other Board employees or other members of the school community (*e.g.*, parents or others) on personal social networking sites, without such individuals' express consent unless the employee is addressing an issue of public concern and the employee's speech falls under applicable constitutional protections pertaining to same.
3. Employees are required to maintain appropriate professional boundaries with students, parents, and colleagues. For example, it is not appropriate for a teacher or administrator to "friend" a student or his/her parent or guardian or otherwise establish special relationships with selected students through personal social media, and it is not appropriate for an employee to give students or parents access to personal postings unrelated to school.
4. Unless given written consent, employees may not use the logos or trademarks of the Nutmeg Public Schools on their personal posts. Please note that this prohibition extends to the use of logos or trademarks associated with individual schools, programs or teams of the school district.
5. Employees are required to use appropriately respectful speech in their personal social media posts; and to refrain from harassing, defamatory, abusive, discriminatory, threatening or other inappropriate communications. Such posts can reflect poorly on the reputation of the Nutmeg Board of Education, can affect the educational process and may substantially and materially interfere with an employee's ability to fulfill his/her professional responsibilities.
6. Employees are individually responsible for their personal posts on social media. Employees may be sued by other employees, parents or others, and any individual that views an employee's social media posts as defamatory, pornographic, proprietary, harassing, libelous or creating a hostile work environment. As such activities are outside the scope of employment, employees may be personally liable for such claims.
7. Employees are required to comply with all Board policies and procedures with respect to the use of computer equipment, networks or electronic devices when accessing social media sites. Any access to personal social media activities while on school property or using school district equipment must comply with those policies, and may not interfere with an employee's duties at work.
8. The Board reserves the right to monitor all employee use of district computers and other electronic devices, including employee blogging and social networking activity. An employee should have no expectation of personal privacy in any personal communication or post made through social media while using district computers, cellular telephones or other electronic data devices.

9. All posts on personal social media must comply with Board policies concerning confidentiality, including the confidentiality of student information. If an employee is unsure about the confidential nature of information the employee is considering posting, the employee shall consult with his/her supervisor prior to making the post.
10. An employee may not link a personal social media site or webpage to the Board's website or the websites of individual schools, programs or teams; or post the school district's material on a social media site or webpage without written permission of his/her supervisor.
11. All Board policies that regulate off-duty conduct apply to social media activity including, but not limited to, policies related to public trust, illegal harassment, code of conduct, and protecting confidential information.

Rules Concerning Social Media Activity Sponsored by the Nutmeg Public Schools

1. If an employee seeks to use social media sites as an educational tool or in relation to extracurricular activities or programs of the school district, the employee must seek and obtain the permission of his/her supervisor prior to setting up the site.
2. If an employee wishes to use Facebook or other similar social media site to communicate meetings, activities, games, responsibilities, announcements etc., for a school-based club or a school-based activity or an official school-based organization, or an official sports team, the employee must also comply with the following rules:
 - The employee must set up the club, etc. as a group list which will be "closed and moderated."
 - Members will not be established as "friends," but as members of the group list.
 - Anyone who has access to the communications conveyed through the site may only gain access by the permission of the employee (e.g. teacher, administrator, supervisor or coach). Persons desiring to access the page may join only after the employee invites them and allows them to join.
 - Parents shall be permitted to access any site that their child has been invited to join.
 - Access to the site may only be permitted for educational purposes related to the club, activity, organization or team.
 - The employee responsible for the site will monitor it regularly.
 - The employee's supervisor shall be permitted access to any site established by the employee for a school-related purpose.
 - Employees are required to maintain appropriate professional boundaries in the establishment and maintenance of all such district-sponsored social media activity.

3. Employees are required to use appropriately respectful speech in their social media posts on district-sponsored sites; and to refrain from harassing, defamatory, abusive, discriminatory, threatening or other inappropriate communications.
4. Employees are required to comply with all Board policies and procedures and all applicable laws with respect to the use of computer equipment, networks or devices when accessing district-sponsored social media sites.
5. The Board reserves the right to monitor all employee use of district computers and other electronic devices, including employee blogging and social networking activity. An employee should have no expectation of personal privacy in any communication or post made through social media while using district computers, cellular telephones or other data devices.
6. All posts on district-sponsored social media must comply with Board policies concerning confidentiality, including the confidentiality of student information. If an employee is unsure about the confidential nature of information the employee is considering posting, the employee shall consult with his/her supervisor prior to making the post.
7. An employee may not link a district-sponsored social media site or webpage to any personal social media sites or sites not sponsored by the Board.
8. An employee may not use Board-sponsored social media communications for private financial gain, political, commercial, advertisement, proselytizing or solicitation purpose.
9. An employee may not use district-sponsored social media communications in a manner that misrepresents personal views as those of the Board or of individual schools or programs, or in a manner that could be construed as such.

Disciplinary Consequences

Violation of this policy may lead to discipline up to and including the termination of employment consistent with state and federal law.