STUDENT SPEECH ON SOCIAL MEDIA

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The Minnesota State Colleges and Universities system is an Equal Opportunity employer and educator.
Outline of Today’s Presentation

- A variety of problems can arise through social media
- As public institutions, the First Amendment directs our ability to establish rules and take appropriate action
- Existing system policies and procedures can be applied to conduct through social media on system-owned sites
- On non-system sites, we have less control, but still have options
Social Media Examples

- Facebook, Instagram, Twitter, Google+, Tumblr, LinkedIn, Ello
- System-maintained accounts and sites
  - System: @MnSCU
  - Schools: Mankato State Facebook Page; Hennepin Tech Google+ Page, @RidgewaterColl
  - Departments: @AdmissionsMSUM, @MSUMRecords
  - Recognized Groups: SCSU Athletics Facebook Page, RCTC Disc Golf Facebook Page, @SMSU_SAC (Student Activities Committee)
  - Campus Figures: @CenturyPres
- Non-system accounts and sites
  - Everything else. Students’ twitter accounts, local Facebook groups, anything we don’t administer.
Problems?

Impersonation of campus officials
Yes, Problems

- Harassing Comments
- Threats
- Impersonation
- Offensive comments
- Trademark misuse
- Academic Integrity
- Discriminatory remarks

So ... When can you:

- Delete the comments?
- Send take down notices?
- Disciplinary action?
Public Institutions Are Subject to the First Amendment

- Campuses are “peculiarly marketplaces of ideas” – merely offensive ideas may not be shut off in the name of “conventions” of decency. The First Amendment generally protects speech from government sanction but not speech that:
  - “Substantially disrupts” college/university operations; or
  - Speech that is not protected by the First Amendment such as
    - “Fighting words”
    - “True threats”
    - Speech inciting imminent lawless action
    - Unlawful harassment/discrimination
    - Obscenity, defamation

- Forum Analysis
Best Practices for System-Controlled Social Media Sites

- Rely on the Acceptable Use Policy (5.22) & Procedure (5.22.1)
  - Users may not engage in harassment, threats to or defamation of others, stalking, and/or illegal discrimination.
  - An institution may decide who creates official pages and uses campus logos and trademarks.
  - Users may not forge the identification of the person using system information technology.
- Consider disabling comments (blogs, facebook)
- Place careful limitations on the forum
  - Open internet
  - D2L
Sample “Limited Purpose” Notice for System-Controlled Sites
Best Practices for System-Controlled Social Media Sites

- Create processes to control creation of “official” social media accounts.
  - Branding and naming conventions
- Ensure continuity of ownership of social media sites by the college/university through:
  - Multiple administrators
  - Passwords may not be reset without authorization
  - Logins must be business email addresses
- Consider privacy implications for student images
Best Practices for Non-System Owned Sites

- Rely on System, College and University polices that may apply irrespective of the online nature of the conduct
  - Board Policy 3.6 Student Conduct
  - Board Policy 1B.1 Equal Opportunity and Nondiscrimination in Employment and Education
  - Program Rules, Program Handbooks, Syllabi

- Rely on Terms of Use of service provider and intellectual property laws
  - Trademark & DMCA take-down notices
  - Harassment or other privacy violations
Should Administrators Monitor Non-System Social Media Sites?

- If you have specific information about a threat, it may be appropriate in order to facilitate campus safety.
  - Specific technologies are available (e.g., geofeedia)
  - But not recommended as a general policy
    - Literally impossible task
    - Once you “know” of certain conduct, may have a duty to act
Threatening or Harassing Posts?

**Evie Lawson**
Who knew chem lab was so stressful! I want to stab a certain someone in the throat. Hmm... perhaps I will spend the evening updating my "Death List."

Like · Comment · 9 minutes ago · 🙈

![4 people like this.](image)

Write a comment ...

**Arthur Travis**
feel like going on a rampage, kinda like that school shooting where that one guy killed some teachers and a bunch of students 😞

Like · Comment · 2 days ago · 🙈
What About Threats of Harm?

- Take immediate action to contact law enforcement if imminent danger

- What about FERPA?
  - Share information with “school officials” with a “legitimate educational interest”
  - Share information with third parties as needed if “articulable and significant threat to health or safe of student or others”
Accounts using system trademarks?

UniConfessions
@UniConfessions

My bank account and GPA are having a race to 0

3:46 PM - 20 Aug 14 · Embed this Tweet

UniConfessions
@UniConfessions

I take a coffee mug full of beer to every class.

3:41 PM - 20 Aug 14 · Embed this Tweet
Accounts posting images of students?

“College_Confessions,” “University_Hottest”, “Tard_Barn”
What About Cyberbullying?

- A new medium – not a new problem
  - Wider potential impact and more immediate effect
- Colleges/universities must make timely effective response to harassment based on protected class regardless of medium if they knew or should have known of the harassment.
- Should colleges/universities adopt new policies to specifically address cyberbullying? No. Better to check existing policies for applicable conduct language.
What About Posts That Violate Academic or Program Standards?

What Can We Do?

- Fight speech with more speech
- Proactive Education
  - Good for students; good for institution
- Remind students their posts are not:
  - Personal, private, or temporary
- But there are:
  - Potential safety risks
  - Potential sources of campus discipline
  - Potential sources of personal liability
- Athletics
Resources

- US Dept. of Education OCR DCL on Bullying
  - [http://www.2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html](http://www.2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html)

- NACUANOTE on Managing Student Speech on Social Media
  - [http://www.ogc.mnscu.edu/Documents/SocialMedia.pdf](http://www.ogc.mnscu.edu/Documents/SocialMedia.pdf)

- System legal counsel
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