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Living Virtually in a Social Media Minefield: How to Avoid Really Stepping In it...

BY JOHN SEDOR AND ...





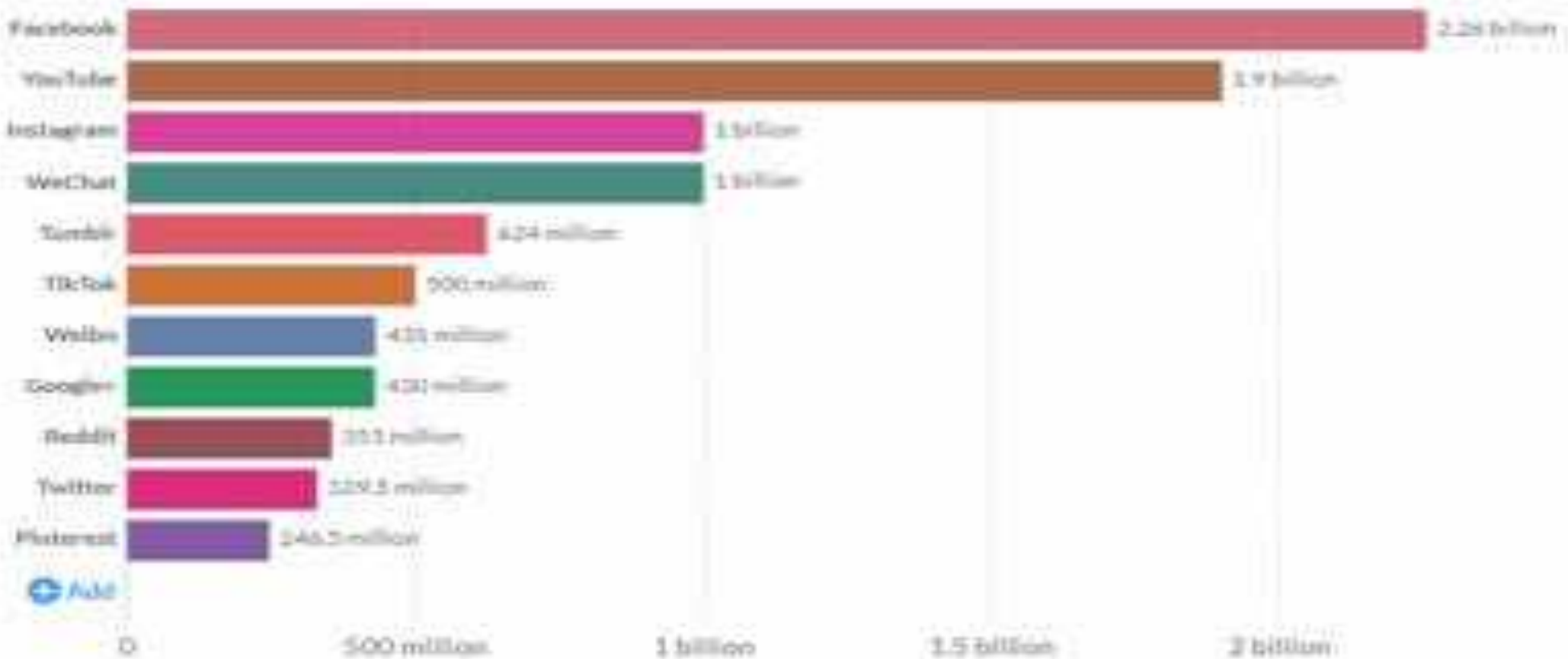


DISCLAIMER:

This presentation is educational only and does not constitute legal advice. If related legal advice is wanted, you would need to contact me through appropriate District procedures with the specifics of the request.

Number of people using social media platforms, 2018

Estimates corrected to monthly active users (MAUs): Facebook, for example, measures MAUs as users that have logged in during the past 30 days. See source for more details.



Source: Statista and Pew (2018)

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Knowing What Hat You Are Wearing

WORLD JOURNAL / BY CARTER COYLE

By [Carter Coyle](#) | February 24, 2020 at 3:46 PM EST - Updated February 24 at 7:47 PM

CHARLESTON, S.C. (WCSC) - The Charleston County School District and its insurer paid a \$150,000 settlement to its chief human resources officer for a school board member's Facebook comments, according to documents obtained under the SC Freedom of Information Act.

The money was paid to Chief Human Resources Officer William (Bill) Briggman to settle allegations of "defamatory comments made by District Board Member Rev. Chris Collins" on a local education Facebook group, the settlement agreement stated.

The Sorting Hat



Lawsuit seeks to preserve Sarah Palin e-mails

Associated Press

Saturday, October 4, 2008 9:40pm | **LOCAL NEWS** [NATION / WORLD](#)

U.S. NEWS | JANUARY 27, 2011 / 8:19 PM / UPDATED 10 YEARS AGO

Alaska promises release of Palin emails by May 31

By Yezeth Rosen

3 MIN READ



ANCHORAGE, Alaska (Reuters) - Alaska officials must release by the end of May an estimated 26,500 pages of emails exchanged between former Governor Sarah Palin and her

State Supreme Court Says Business
nts Are

(3) "public records" means books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by a public agency, or by a private contractor for a public agency, and that are preserved for their informational value or as evidence of the organization or operation of the public agency; "public records" does not include proprietary software programs.

That one person in the group chat who never talks, but reads everything



You and three other board members are on a town Facebook group with 500 other town members. You chat about the weather, current events, town gossip, etc. In a Facebook post to the group, one of the board members starts to complain about another board member and how they acted in Executive Session. Hundreds of town people plus the other 3 board members chime in and start to discuss pending board matters.

“Chat”ty Cathy

“meeting” means a gathering of members of a governmental body when more than three members or a majority of the members, whichever is less are present.

“a matter upon which the governmental body is empowered to act is considered by the members collectively...”

West's Alaska Statutes Annotated
Title 44 - State Government
Chapter 62 - Administrative Procedures Act (Regs & Annos)
Article 6 - Open Meetings of Governmental Bodies

AS § 44.62.310
§ 44.62.310. Government meetings public

(b) In this section,
(2) “meeting” means a gathering of members of a governmental body when
(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or
(B) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act, and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;
(4) § 1; SLA 1966, ch. 48, § 1; SLA 1967, ch. 78, § 1; SLA 1969, ch. 7, § 1; SLA 1972, ch. 98, § 2; SLA 1976, ch. 139, § 3; SLA 1985, ch. 34, §§ 2, 3; SLA 1992, ch. 201, § 2; SLA 1991, ch. 2-8; SLA 2000, ch. 54, § 7. Amended by SLA 2009, ch. 21, §§ 1, 2, eff. Aug. 21, 2009.

facebook

Status

Photo

Ask Question

Milestone

I saw that parent John Lennon posted that little student Paul McCartney is being expelled by the school for singing sweet tunes in class. I know all about this and he IS WRONG. Paul is being expelled for driving a yellow submarine to school. Let it be, John!

Public ▼

Post

To click “Post” or not to click
“Post” . . .

FERPA

- ▶ A school can disclose personally identifiable information from an education record without a parent's consent to other school officials with **legitimate** educational interests.
- ▶ However, before personally identifiable information is released publicly (like a name, picture, information from the education record), you must have the written consent of the parent or guardian.
- ▶ A board member IS a school official under FERPA.
- ▶ Most common scenario – disciplinary appeals

What if I want to share a picture of kids helping the community that I took while at the school one day?

I can't even say their name on Facebook?

But what if their parent is spreading lies. I can't correct them?!

facebook

Status

Photo

Ask Question

Milestone

Hey Jude, you are wrong. George Harrison is an AWFUL superintendent. In fact, I learned last night at the meeting that we are terminating him because he can't sing in tune!

Public

Post

To click “Post” or not to click
“Post” . . .

BB 9011 Disclosure of Confidential Information

Confidential information which is produced for or which comes out during executive sessions of the Board shall not be divulged or released unless a majority of the Board agree to release the information, subject to applicable laws regarding executive sessions and confidential records. This bylaw is not intended to cause the withholding of information about the purpose of executive sessions of the Board.

(cf. [1340](#) - Access to District Records)

(cf. [4112.6/4212.6/4312.6](#) - Personnel Records)

(cf. [5125](#) - Student Records)

Information from executive session shall be released by the president or chairman of the meeting in which the executive session is held.

Any Board member who releases confidential information contrary to the provision of this bylaw may be publicly censured by a majority vote of the Board.

(cf. [4119.23](#) - Unauthorized Release of Confidential Information)

(cf. [9321](#) - Executive Sessions)

ADOPTED: JUNE 2005

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DISCLOSURE OF CONFIDENTIAL INFORMATION

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Central Unified trustee resigns days after posting

Alvord school trustee asked to resign over alleged racist Facebook posts

ALVORD RESIDENTS CALL FOR REMOVAL

LOCAL SCHOOL BOARD MEMBER STEPS DOWN OVER SOCIAL MEDIA BACKLASH

 BORIS | Updated June 15, 2020

“ These dumbasses need to get hosed if they don't get off the highway. This will never make people sympathetic to your cause, it will make people hate you though.”

Owosso School President resigns over racially insensitive social media post

making

racist comments on social media

- “Most crime is perpetrated by black people. Don't act like animals and you won't be treated like animals.”

UNION COUNCIL Shawano School Board member asked to resign after "racist" social media post

Union follow

The school board member says, “to resign would be a surrender to false accusations.”



This guy is a jerk...



BLOCKED!!

EDUCATION

Poway Unified spent \$320k in dispute with parent

Board member maintained a private social media account but listed on it that it was the “official page” for that board member.

Board member had a profile picture that was the school district sign.

Board member listed his interests as being accessible and accountable, retaining quality teachers, increasing transparency, and ensuring our children’s campus safety.

This guy is a jerk...

EDUCATION

Poway Unified spent \$320k in dispute with parent



BLOCKED!!

Board member blocked a parent from his Facebook page after that parent made negative comments about the board.

Parent sued individual board member in federal court for violation of constitutional rights.

What do you think the court did with this case?



But they won't take any of MY money, right?!

AS 14-10-115

if the board member, agent, employee, teacher, student teacher, officer, or member of the supervisory or administrative staff, at the time of the occurrence, was acting under the direction of the school board within the course or scope of the duties of the board member.

A school board shall insure or indemnify and protect the board, any member of the board, or any agent, employee, teacher, student teacher, officer, or member of the supervisory or administrative staff of the school district against financial loss and expense, including reasonable legal fees and costs arising out of any claim, demand, suit, or judgment by reason of alleged negligence, alleged violation of civil rights, or alleged wrongful act resulting in death or bodily injury to any person or accidental damage to or destruction of property, inside or outside the school premises, if the board member, agent, employee, teacher, student teacher, officer, or member of the supervisory or administrative staff, at the time of the occurrence, was acting under the direction of the school board within the course or scope of the duties of the board member, agent, employee, teacher, student teacher, officer, or member of the supervisory or administrative staff.

Don't I have qualified immunity?

- ▶ Does not protect you from being sued.
- ▶ Qualified Immunity protects you from being liable for damages if:
 - ▶ Conduct did not violate a clearly established constitutional right of another person
 - ▶ Acting under the color of law

▶ **Free Speech Rights of Public Officials**

“That marketplace of ideas is undermined if public officials are prevented from responding to speech of citizens with speech of their own.”

You attorneys have SO many rules. What can I share?

- ▶ Information the District has already released publicly.
- ▶ Information from the open portion of the board meetings.
- ▶ Information you learned in the community.



Behind the Keyboard – Best Practices

Best Practices

- ▶ Don't comment in your capacity as a board member.
- ▶ Use social media to "LISTEN."
- ▶ Don't have chat groups that would constitute a quorum of the board.
- ▶ Don't divulge confidential information about students, employees, or board business.
- ▶ If you do post in your capacity as a board member, retain a copy of that post!



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