CIVIL DISCOURSE

Alaska Association of School Boards Conference 2016

LAEL HARRISON

FAULKNER BANFIELD
A PROFESSIONAL CORPORATION
WHERE IS THE LEGAL LINE?

• Generally not criminal
  – Unless includes threat of violence

• If not criminal, victim has to sue for damages
Where is the Legal Line?

- Opinions (including insults) allowed unless
  - Wildly outrageous
  - Obscenity
  - Threats or calls for violence
Where is the Legal Line?

- **Untrue fact statements**
  - **If about a public figure,** must have reason to know it’s a lie
  - **If about a private figure,** negligent or reckless
WHERE IS THE LEGAL LINE?

• IF THE LIE IS ABOUT YOUR SERVICE ON THE SCHOOL BOARD...

YOU ARE A PUBLIC FIGURE!
Where is the Legal Line?

• Also:
  – Lie told to others
  – Lie damages your reputation
  • In some cases, this is assumed
  • In some cases, you will have to prove it
Where is the Legal Line?

• In some unusual cases, publishing something *true* can be actionable
  – “Highly offensive” invasion of privacy
  – Not of “legitimate concern to the public”
Why Victims Seldom Sue
Preventative Measures

- Viewpoint neutral rules
- Executive session when reputation at stake
- Avoid social media with anonymous comments
- Don’t repeat unlikely factual rumors
PREVENTATIVE MEASURES

BUT DON’T BE AFRAID TO GIVE HONEST OPINIONS OR STATE FACTS YOU HAVE REASON TO BELIEVE ARE TRUE
QUESTIONS?

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