

## ASPEN ACADEMY

*Adopted: Nov 19, 2019*

*Revised: October 17, 2022*

### **POLICY 535      EMPLOYEE USE OF SOCIAL MEDIA**

#### **I.      PURPOSE**

This policy establishes prohibitions and expectations for the use of social media in professional, educational, and personal settings.

#### **II.     DEFINITIONS**

- A.      **Blog:**** A series of entries, written by either one person or a group of people, in an online journal, usually posted in chronological order, like a diary. Blogs can allow comments on entries or not. The term is short for web log.
- B.      **Comment:**** A response to a blog post, news article, social media entry, or other social networking post.
- C.      **District's Computer System:**** All hardware and software that is owned by the district, leased by the district, or used by the district pursuant to a license agreement or other type of agreement; all aspects of the district's computer electronic system, including all data stored on that system; the district's internet and Wi-Fi network; and all portable electronic communication devices that are owned by the district, leased by the district, or used by the district or its employees pursuant to an agreement with the provider of the electronic communication device.
- D.      **Employee:**** All employees of the district, regardless of whether they are hourly or salaried, and all volunteers of the district while volunteering on district property.
- E.      **Forum:**** An online discussion site.
- F.      **Post:**** An item inserted to a blog, published or displayed on social media, or entered on any type of computerized bulletin board or forum. For purposes of this policy, "posts" include "comment" and "blogs."
- G.      **Social Media:**** A variety of online sources that allow people to communicate, share information, share photos, share videos, share audio,

and exchange text and other multimedia files with others through an online or cellular network platform. Examples of social media include, but are not limited to, websites, weblogs (blogs), wikis, social networks, online forums, virtual worlds, Facebook, Twitter, LinkedIn, Flickr, YouTube, Snapchat, and Instagram.

- H. Social Networking:** The use of social media formats such as Facebook, Twitter, YouTube, Snapchat, MySpace, LinkedIn, message boards or bulletin boards, blogs, and other similarly developed formats, to communicate with others using the same formats while also networking with other users based upon similar interests, geographical location, skills, occupation, ideology, beliefs, etc.
- I. Speech:** Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, video, or related forms of communication.
- J. Website:** A set of interconnected web pages that are prepared and maintained as a collection of information by a person, group, or organization.

### **III. ESTABLISHMENT OF DISTRICT SPONSORED SOCIAL MEDIA**

- A. District May Establish and Regulate Social Media Sites.** The district may establish social media sites and accounts for the district and may monitor and regulate the content of information on its sites and accounts. The district's website is an example of a district social media site. The Director must approve the establishment of all district social media sites.
- B. Must Comply with All Applicable Policies and Laws.** District social media sites must comply with all applicable laws and district policies. Accordingly, employees who post or otherwise publish data to a district social media site must comply with all applicable district policies and all laws, including, but not limited to, copyright laws, privacy laws, and laws governing the use of another person's name, likeness, or other personal attributes.

### **IV. RULES THAT APPLY AT ALL TIMES (DURING THE DUTY DAY AND OUTSIDE THE DUTY DAY)**

- A. May Not Speak for the District.** The Director is the authorized spokesperson for the district. Without prior written authorization from the Director or the School Board Chair, employees may not use social media

during the duty day or outside the duty day to state or imply: (1) that they are speaking for, or on behalf of, the district; (2) that they are authorized to speak for, or on behalf of, the district; or (3) that their views represent the views of the district. Members of the public often have difficulty discerning whether a public employee is speaking as a private citizen or as a public employee. When a reasonable person would question whether an employee is acting as a private citizen or as a public employee, the employee is encouraged to include a disclaimer on the social media site to eliminate any confusion and clarify that the employee is speaking as a private citizen, and not as a district employee, and that the employee's views do not necessarily reflect the views of the district.

- B. May Not Disclose Private or Confidential Data.** Unless authorized by the Director or the School Board, employees may not use social media to post, publish, or otherwise disclose data on students, parents, or employees if the data are classified as private or confidential under federal or state law. Removing names is insufficient if any member of the community could still identify the student or employee. For the same reason, posting or otherwise publishing “fictional” information about situations that parallel an actual situation involving students or employees is prohibited.
- C. May Not Post Student Photos or Videos.** Unless authorized in advance by the Director or , employees may not post, text, or otherwise publish any photograph, audio, video, or other multimedia file that depicts or identifies a student and was created at school or a school sponsored activity, or that was submitted by or collected from a student at school or a school sponsored activity. This policy applies regardless of the classification of the photograph, audio, or video under the Minnesota Government Data Practices Act.
- D. May Not Post Security Data.** Employees may not post, text, publish, or otherwise disclose any floor plans or blueprints of district buildings, any emergency response plans, or any other data that, if disclosed, could jeopardize the security or safety of students or staff at school.
- E. May Not Post Inappropriate Material.** Employees may not use social media to post, make, or otherwise publish any statement, comment, image, picture, audio, or video that: (1) is pornographic; (2) promotes domestic violence; (3) promotes crimes against children; (4) promotes illegal drugs; (5) threatens physical harm to another person; (6) incites violence at school; (7) creates, or could reasonably be predicted to create, a material and substantial disruption to school operations; (8) creates, or could reasonably be predicted to create, an environment that is not conducive to learning; (9)

significantly interferes with the learning of students; or (10) ridicules, maligns, disparages, unlawfully discriminates, harasses, or otherwise expresses bias based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, familial status, disability, sexual orientation, or age.

- F. Must Maintain Appropriate Boundaries.** All employees, including employees who use social media, must maintain professional boundaries with students. Employees may not engage in communications with students that give the impression of being peer-to-peer communications, unless the employee and student are related. Additionally, employees may not have extensive social involvement or develop personal or private relationships with individual students through social media, unless they are closely related. Such conduct crosses professional boundaries and may lead to an investigation, a report to the Professional Education Licensing and Standards Board or other licensing board, and discipline up to and including discharge, depending on the severity and nature of the conduct. Additionally, public employees must understand that such conduct may result in irreparable harm to their reputation in the community and may significantly impair their ability to work in a school setting.
- G. Must Not Violate Any Laws.** All employees who use social media must do so in a manner that complies with all applicable federal and state laws, including but not limited to: trademark, copyright, intellectual property, and other laws governing the publishing of the work of others; privacy laws; laws governing the use of another person's name, likeness, or other personal attributes; defamation laws; laws governing the publication of confidential business information; and criminal laws.

## **V. USE OF SOCIAL MEDIA DURING THE DUTY DAY**

- A. Educational Use Permitted for Teachers and Administrators.** Teachers and administrators may use the district's computer system to access educationally appropriate social media for legitimate educational purposes, including promoting student learning and implementing the district approved curriculum. Teachers who access social media for legitimate educational purposes must notify the principal in advance and must use their school email address or other school contact information to access the social media. When using social media during the duty day for legitimate educational purposes, teachers and administrators must comply with all applicable laws and with all district policies.

- B. Personal Use Prohibited.** Employees may not engage in personal use of social media during the duty day, unless such use occurs during a duty-free lunch period. With the exception of school administrators and teachers who are using social media for an educational purpose, employees may not use any part of the district's computer system to access social media during the duty day.
- C. No Expectation of Privacy.** The district routinely monitors and inspects its computer system. Employees who use the district's computer system have no expectation of privacy in any data that are stored in or transmitted through the district's computer system, including, but not limited to, data showing an employee's use of the district's system. Data that are stored in the district's computer system are subject to inspection and may also be subject to disclosure under the Minnesota Government Data Practices Act and through the discovery process in litigation.

## **VI. USE OF SOCIAL MEDIA OUTSIDE THE DUTY DAY**

- A. May Not Use District Computer System or Other School Equipment.** Employees may not use any district equipment or any part of the district's computer system to access social media outside the duty day.
- B. May Not Use School Email Address.** Employees may not use their district e-mail address or other district information to establish or access a social media site or account outside the duty day.
- C. May Not Use District Name or Trademarks.** No employee may post, display, or otherwise publish on social media the district's name, any district trademark, or any other intellectual property belonging to the district, including any logo, branding, or image that is owned or used by the district. In addition to violating the district's intellectual property rights, the unauthorized use of the district's name or intellectual property can give the false impression that an employee's speech is sponsored or endorsed by the district.
- D. Speech Pursuant to Job Duties Is Not Protected.** As a general matter, public employees have a First Amendment right to use social media to express their views on matters of public concern. However, this right is not absolute. When public employees make statements pursuant to their official job duties, they are not speaking as citizens for First Amendment purposes and, therefore, their speech is not constitutionally protected. When employees are speaking pursuant to their official job duties, they must follow their supervisor's directives and the district approved

curriculum. Employees may be disciplined for speech that is not protected under the Constitution or a federal or state law.

- E. **Speech that Interferes with Efficient Operations Is Prohibited.** Even when speech touches on a matter of public concern and is not pursuant to an employee's job duties, an employee's free speech rights must be balanced against the district's right to maintain efficient operations and an environment that is conducive to working and learning. When balancing these rights, the courts have held that a public employee's speech is not protected if it would create disharmony in the workplace, impede the employee's ability to perform his or her job duties, significantly impair the working relationship with other employees who work closely with the speaker, or significantly harm the employer's image. Accordingly, employees may be disciplined for speech that creates disharmony in the workplace, impedes the employee's ability to perform his or her job duties, significantly impairs the working relationship with other employees who work closely with the speaker, or significantly harms the district's image.

## VII. CONSEQUENCES FOR VIOLATIONS OF POLICY

- A. **Discipline.** Employees who violate this policy may be subject to discipline, up to and including discharge. The level of discipline will depend on the nature and severity of the offense. Any information that employees create, transmit, download, exchange, or discuss through public social media or any public online forum may be accessed by the district at any time without prior notice. Employees should expect that any such information will exist in some electronic form forever, whether on the original site or copied to some other site or memory storage.
- B. **Cooperation with Law Enforcement.** To the greatest extent permitted under the law, the district will cooperate with local, state, and federal authorities involved in investigating employee activity through social media.
- C. **Other Consequences.** Employees who engage in personal use of social media must recognize that the public may have difficulty discerning between private (personal) activity and public (professional) activity. Employees must also recognize the risk of harm to their own reputation and the embarrassment that can occur from engaging in inappropriate or questionable use of social media. Such harm can be longstanding, because information published on social media can be widely distributed and easily accessible for a long period of time.

- D. Good Judgment Expected.** Employees are expected to exercise good judgment when using social media. Employees are also expected to be thoughtful about how they present themselves through social media and the impact that using obscene, profane, or vulgar language may have on their effectiveness as an employee of a public school district.

**Legal References:**

*Garcetti v. Ceballos*, 547 U.S. 410 (2006)  
*Kinkade v. City of Blue Springs*, 64 F.3d 389 (8<sup>th</sup> Cir. 1995); *see also Lewis v. Harrison School District No. 1*, 805 F.2d 310 (8<sup>th</sup> Cir. 1986).  
Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)  
Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)  
Minn. Stat. § 626.557 (Reporting of Maltreatment of Vulnerable Adults)  
17 U.S.C. § 101, *et seq.* (Copyrights)  
20 U.S.C. § 1232g, *et seq.* (Family Educational Rights and Privacy Act)  
20 U.S.C. § 6751, *et seq.* (Enhancing Education through Technology Act of 2001)  
47 U.S.C. § 254 (Children's Internet Protection Act of 2000 (CIPA))  
34 C.F.R. §§ 99.1-99.67 (Family Educational Rights and Privacy Act)  
47 C.F.R. § 54.520 (FCC rules implementing CIPA)  
Minn. Rules Parts 1205.0100-1205.2000 (Data Practices)  
Minn. Rules Part 3512.5200 (Code of Ethics for School Administrators)  
Minn. Rules Part 8700.7500 (Code of Ethics for Minnesota Teachers)

**Cross Reference:**

Policy 403 (Discipline, Suspension and Dismissal of School District Employees)  
Policy 406 (Public and Private Personnel Data)  
Policy 413 (Harassment and Violence)  
Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)  
Policy 415 (Mandated Reporting of Maltreatment of Vulnerable Adults)  
Policy 423 (Employee-Student Relationships)  
Policy 505 (Distribution of Non-School Sponsored Materials on School Premises by Students and Employees)  
Policy 514 (Bullying Prohibition Policy)  
Policy 515 (Protection and Privacy of Pupil Records)  
Policy 524 (Internet Acceptable Use Policy)  
Policy 525 (Violence Prevention - Applicable to Students and Staff)  
Policy 526 (Hazing Prohibition)  
Policy 606 (Textbooks and Instructional Materials)  
Policy 905 (Advertising)