

NJSBA Leadership Conference June 23, 2023

A delicate Balancing Act – Social Media and the Board Member



The expansion of technology and social media has not only changed student instruction but has greatly affected school governance as well.

The pandemic only heightened the changes.

The SEC (School Ethics Commission) has taken notice.

The ethical “rails” haven’t changed.

What we Will Discuss

- ❖ **Social Media**
- ❖ **Board Member's Role**
- ❖ **Ethical Rails**
- ❖ **Community Unrest**
- ❖ **Best Practices**

Social Media by the Numbers

- When Pew Research Center began tracking social media adoption in 2005, just 5% of American adults used at least one of these platforms. By 2011 that share had risen to half of all Americans, and today 72% of the public uses some type of social media.

Social Media by the Numbers

Which social media platforms are most common (2021)

- Facebook 69%
- Twitter 23%
- Instagram 40%
- YouTube 81%
- TikTok 21%
- LinkedIn 28%
- Pinterest 31%

Social Media by the Numbers

Who uses Social Media by Age(2021)

- Age 18-29 84%
- Age 30-49 81%
- Age 50-64 73%
- Age 65 and up 45%

Social Media by the Numbers

Who uses Social Media by Gender(2021)

- Women 78%
- Men 66%

Social Media & Ethics

- “I will support and protect school personnel in proper performance of their duties.”
- N.J.S.A. 18A:12-24.1(i)

Social Media & Ethics

- “I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.”
- N.J.S.A. 18A:12-24.1(e)

Social Media & Ethics

- “I will refuse to surrender my independent judgment to special interest or partisan political groups or to use the schools for personal gain or for the gain of friends.”
- N.J.S.A. 18A:12-24.1(f)

Social Media & Ethics

- “I will refer all complaints to the chief administrative officer and will act on the complaints at public meetings only after failure of an administrative solution.”
- N.J.S.A. 18A:12-24.1(j)

Social Media & Ethics

- C56-19 and C57-19
- Board member violated the SEC when he posted offensive posts on his personal Facebook page that were anti-Muslim. Censured.
- Although it was found that the posts were on his personal Facebook page, were not made in the capacity of a Board member, and the content of the posts and were the Board member's personal opinions, it was determined that the Board member violated N.J.S.A. 18A:12-24.1(e) as it was "private action that may compromise the Board" and "undermined the public trust."

Social Media & Ethics

- C17-21
- Alleged violations via member's "administrator" role of a social media page, "Watchdog," that shared community events and school district information. Also alleged violation via membership in second, private group.
- Member stopped posting critical comments about district employees after election but remained as administrator (and member) while others posted critical/negative/defamatory comments.
- Charges dismissed.

Social Media & Ethics

- C56-19 and C57-19
- Alleged violation of N.J.S.A. 18A:12-24.1(e) via various posts on social media.

- Respondent shared a Facebook post from the “Rant Nation with Graham Allen” site to his personal Facebook page. The shared post appears to link to a video purporting to show United States Representative Ilhan Omar. The post additionally contains a picture of Congresswoman Omar wearing a hijab – a head scarf worn by many Muslim women. In sharing the post, Respondent commented, “Terrorist....100%.”

- Respondent shared a Fox News article dated April 19, 2019, entitled, “Rashida Tlaib calls for hunger strikes to shut down ICE” to his personal Facebook page. The post includes a picture of Congresswoman Tlaib, with a comment by Respondent stating, “My life would be complete if she/they die....”

- Respondent shared a photograph on his personal Facebook page of a doll, with a black eye, bruise on her chin and dressed in a hijab. The body of the photograph bears the following text: “Sharia Barbie [-] Comes with a jihab [(sic)], bruises and quran [-] Stoning accessories available for additional purchase.”

- “What remains is to determine whether in making those posts [R]espondent took private action, that is, action beyond the scope of his duties, such that, by its nature, had the potential to compromise the Board.” Id.
- ALJ Pelios notes, “testimony by all three witnesses and documents in evidence paint a picture of numerous phone calls to Board staff constituting harassment and threats that no doubt have had a negative impact to the Board’s operation. Furthermore, and more perilous, is the potential for further compromise.” Id. at 16.
- According to ALJ Pelios, the Legislature made “it clear” that “it is essential ... BOARD members ‘must avoid conduct which is in violation of their public trust or which created a justifiable impression ... that such trust is being violated.’” Id.

- ALJ Pelios asserts, “It is appropriate to conclude that conduct creating such an impression has the potential to cause the impairment of the Board or to expose it to discredit or suspicion – in other words, to compromise the Board.” Id. at 16-17.
- ALJ Pelios concludes Respondent’s admitted conduct has that same potential.

- According to ALJ Pelios, “It is not a stretch to consider that students or families of students of Muslim faith may fear that their culture or faith may play a role in adverse decisions by the Board” based on Respondent’s “public expression of negative attitudes towards Muslim culture and faith.” Id. at 17.
- Furthermore, “they may well be discouraged from even seeking redress to the Board if they feel there is no point.” Id. ALJ Pelios contends, “This is clearly an example of conduct that would cause members of the Board to lose the confidence and respect of the people, and ... ‘creates an unjustifiable impression ... that such trust is being violated.’” Id.

- ALJ Pelios concludes Respondent’s posting and commenting as described in Counts 2 and 3 of Complainant Rossi’s petition constitute private action that has the potential to compromise the Board and, therefore, violates N.J.S.A. 18A:12-24.1(e).
- Furthermore, ALJ Pelios notes the Commission “has indicated that in exercising those rights, board members must comply with the [Act].” Id. ALJ Pelios asserts the record shows that Respondent “has not complied with, and in fact has violated, the Act and, therefore, ALJ Pelios concludes that charges of violating N.J.S.A. 18A:12-24.1(e) should be sustained as to Counts 2 and 3.

Social Media & Ethics

- C25-11: (Camden) President of the Board violated the Code by posting the following comments on his Facebook page and a link to a picture of the Superintendent: “Now if we could only do something about our local terrorists that destroy dreams and burn futures.”

Social Media

Social Media Changing the Landscape

- Social Media brought “Trolling” to the vernacular.
- Trolling is common and not meant to unite us but to cause disruption.
- The speed of social media means you can not stay ahead of the story all the time.
- “Friend” is a relative term.

Posts on social media on social and political issues

- Do it at your own risk.
- You do not give up your first amendment rights as a board member BUT
- Your posts and actions will be viewed totally differently because you are a board member.
- Think headlines!
- Intention not important; *perception* is.

Posts on social media on social and political issues

- Not everyone will share your sense of humor
- Be careful what you like or share
- It may make your effort to be an effective board member more difficult

Posts on social media dealing with district issues

- Use Extreme Caution
- Do not comment on personnel issues or any confidential issues
- Best not to discuss board business
- Best to promote school events like plays, sporting events, awards
- Act like you are writing a letter to the editor stating you are not speaking for the board

Disclaimers & the SEC

- **A Disclaimer is not a “get out of jail free” card**
- ***“THE FOLLOWING STATEMENTS ARE MADE IN MY CAPACITY AS A PRIVATE CITIZEN, AND NOT IN MY CAPACITY AS A BOARD MEMBER. THESE STATEMENTS ARE ALSO NOT REPRESENTATIVE OF THE BOARD OR ITS INDIVIDUAL MEMBERS, AND SOLELY REPRESENT MY OWN PERSONAL OPINIONS.”***

Disclaimers & the SEC

- **The reporter writes/posts, and “determines” your words.**
- **But a Disclaimer may not be reported.**
- ***Should I speak, not may I speak?***

Posts on social media on social and political issues

How would you handle a board member who posts very strong opinions on social and political issues?

Posts on social media on social and political issues

How would you handle a board member who discusses board and district issues on social media?

Posts on social media by Community members

How would you handle a community discussion board that is spreading misinformation on the group's website?

Posts on social media by Community members

Can a board member have a board member Facebook page?

Should you?

- **Even good people make bad posts**
- **Keep the focus on students and learning not adults.**
- **Have a Communication Plan to deal with issues proactively.**
- **It is not a matter of if you will have a crisis but when you will have one.**

- **Information is traveling faster than ever but it is still a lot slower than misinformation**
- **The internet is forever**
- **The question you should ask is not “Can I?” but “Should I?”**
- **The bell can’t be un-rung**



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