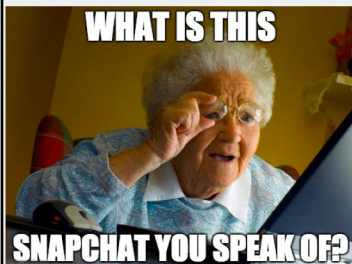




Digital Citizenship

Karen Haase



 KSB School Law

 @KarenHaase

 karenahaaase



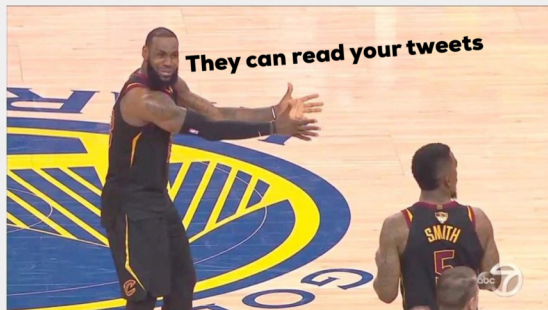
Consequences for Digital Citizenship Fails

- School-based
- Criminal Prosecution
- Victimization by Predators

School Based Consequences

- Activities
- Suspension and Expulsion

Sports and Activities



Arceneaux v. Assumption Parish Sch. Bd., 242 F. Supp. 3d 486 (5th Cir. May, 2018)

- Cheerleaders post pic on Snapchat
- Sent to Weekend Schemers
 - "The Weekend Schemers maintains a Snapchat account that posts pictures provided by third parties and bills itself as '[t]he authority on college life, partying, and most importantly scheming.'
 - "Many of the photographs featured on Weekend Schemers's Snapchat account depict young women exposing their buttocks"
- School found out

Arceneaux v. Assumption Parish Sch. Bd., 242 F. Supp. 3d 486 (5th Cir. May, 2018)

- Student given
 - 3 days ISS
 - Kicked off cheer squad
 - Prevented from trying out senior year
- Parents Sued
 - Student Handbook
 - First Amendment
 - Sex Discrimination

**Arceneaux v. Assumption Parish Sch. Bd.,
242 F. Supp. 3d 486 (5th Cir. May, 2018)**

▪Court:

- Family failed to present direct or circumstantial evidence that would give rise to an inference of unlawful discrimination
- Student "was not excluded from participating in cheerleading because she was a female student. She was removed from the team because she posed for a photograph, raising her cheerleading uniform skirt, and that photo was posted on the internet.

**A.Z. v. Doe
(N.J. 2008)**

- Heroes and Cool Kids Program
- Anonymous Parent sends school pics from Facebook
- Student sues "John Doe"; serves subpoena
- Defendant: no defamation therefore no case
- Court: truth is an absolute defense

Be careful what you tweet



- Senior basketball player: 3.5 GPA, 15.8 PPG, 5.5 rebounds per game
- Tweeted at the WIAA to "EAT S***"
- 5 game suspension
- "I never thought it would get me in trouble like that."

Be careful what you tweet



Patrick Welch
@PatrickWelch_15

Shout out to Portsmouth, you may have won in the regular season..... But we won the ship you suck #f---kyourself

3/15/14, 5:25 PM



- Senior basketball player: Division I scholarship, State Player of the Year
- Tweeted at other team
- Deleted after 15 minutes
- Stripped of POY status

FOOTBALL

Recruits, be warned. Husker coach Scott Frost is watching your social media

By Sam McKewon / World-Herald staff writer 10 hrs ago 2



Search...



Moving?
Shop now to get our best deal of the season! Free move, WiFi setup & DVR service.

Football schedule

2018

Sept. 1: Akron, 7 p.m. (FOX)
Sept. 8: Colorado, 3:30 p.m. (ABC)
Sept. 16: Iowa, 11 a.m. (BTN)
Sept. 22: at Michigan, TBA
Sept. 29: Purdue, TBA
Oct. 6: at Wisconsin, TBA
Oct. 13: at Northwestern, 11 a.m.
Oct. 20: Minnesota, TBA
Nov. 3: at Ohio State, TBA
Nov. 10: Illinois, TBA
Nov. 17: Michigan State, TBA
Nov. 23: at Iowa, 11 a.m. (FOX)

A recruit's social media history is one of the most important things Scott Frost evaluates to determine character.

[Learn more about recruiting.](#)

Coach Frost:

"And I'll tell you this right now — if there's anything negative about women, if there's anything racial or about sexuality, if there's anything about guns or anything like that, we're just not going to recruit you, period. Piece of advice for you — **what you put on social media, that's your résumé to the world.** That's what you're trying to tell the world you're all about. That's how you're advertising yourself. Be smart with that stuff."

Suspensions and Expulsions

Dad: We just got back from parent-teacher conferences, you've been expelled

Kid: But I'm homeschooled

Dad: You have 24 hours to get out



Suspensions and Expulsions

- NEB. REV. STAT. 79-254 *et seq.*
- Reasons for discipline:
 - "ongoing pattern of physical, verbal or electronic abuse"
 - "any activity forbidden by NE law"
- "On school grounds" = 1-1 devices
- Consequences:
 - Loss of district technology use
 - Loss of extracurricular privileges
 - Suspension
 - Expulsion

J.S. v. Grand Island Pub. Sch. 297 Neb. 347 (2017)

- Comments on Ask.FM by MS students:
 - "Tomorrow gonna be hella fire 🔥 be there (School)."
 - "Don't show up to school tomorrow 🍷"
- Parents call police
- Police show up at school

J.S. v. Grand Island Pub. Sch.
297 Neb. 347 (2017)

- Girl who made “hella fire 🔥” comment:
 - When asked why she did it?
 - “hella fire” means awesome
 - School suspended for 15 days
 - Appealed
- Nebraska Supreme Court dismissed appeal

Shen v. Albany Unified Sch. Dist. (2017)

- Student created Instagram account with limited access, around 10 other kids
- Posts were racist and threatening in nature
 - KKK starter pack
 - Picture of a white man beating a black slave
 - Pictures of African-American staff and students with nooses drawn on their necks

Shen v. Albany Unified Sch. Dist. (2017)

- Ten students depicted; word gets out
- Instagram account deleted
- Creator of the account expelled; students who liked and commented also disciplined
 - Liking a post “broadcasts the user’s expression of agreement, approval, or enjoyment of the post”

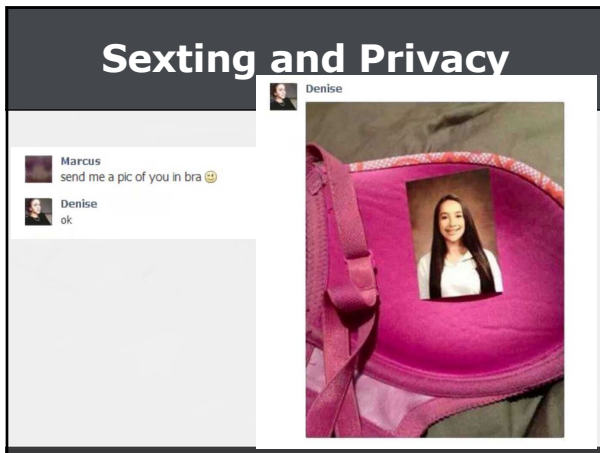


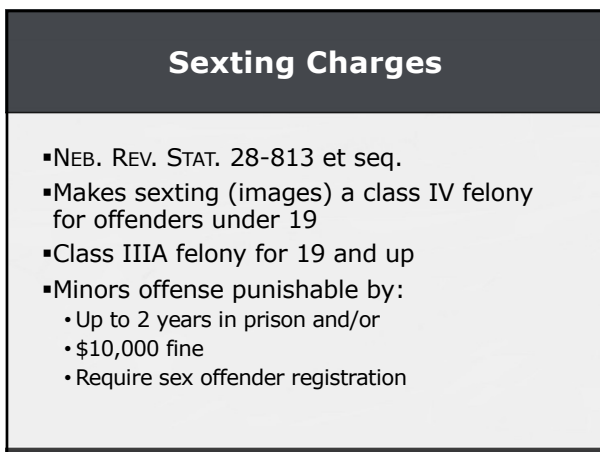


Criminal Consequences

- NEB. REV. STAT. 28-311.01
- Terroristic Threats: "threatens to commit any crime of violence ..."
 - With the intent to terrorize another
 - With the intent of causing evacuation of a building or public place
 - In reckless disregard of the risk of causing such terror or evacuation
- Class IIIA Felony punishable by up to 3 years in prison per threat







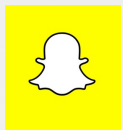
In re Katrina R.

- 15 year old texted nude pics to her BF
- Was adjudicated "a child who departs herself so as to injure or endanger seriously the morals or health of herself or others"
 - Placed in legal custody of HHS
 - 6 months' probation
 - Required counseling and community service.

It never hurts to ask...?

- NEB. REV. STAT. 28-707: Child Abuse
- A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be
 - "Placed in a situation that endangers his or her life or physical or mental health"
 - "Placed in a situation to be sexually exploited by allowing, encouraging, or forcing such minor child to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions"
- Class IIIA Felony, or worse...

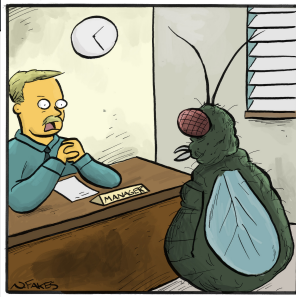
A word about Snapchat



"we cannot promise that deletion will occur within a specific timeframe"

<https://www.snap.com/en-US/privacy/privacy-policy/>

Victimization



"Stan, it's come to my attention that you have been creeping people out at work."

CartoonStock.com

State v. Gallegos

- 16-year-old girl met 17-year-old guy on Instagram
- Talked, became friends
- Asked her for pictures
- She said OK
- Then said he'd share those photos with her classmates unless she met him



So, now what?



Questions?

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