

HIDDEN DANGERS OF ELECTRONIC COMMUNICATIONS

ETFO - LEADERSHIP 2008

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Topics to be covered:

- 1. Bullying, Cyberbullying, and Internet Abuse**
- 2. Problems with Electronic Communications generally**
- 3. Technical Aspects of Electronic Communications**
- 4. Defamation and Labour Relations**
- 5. Tips**
- 6. Questions and Concluding comments**

Appendix A: Illustrative Examples

Appendix B: Internet Service Contact Information

1. Bullying, Cyberbullying, and Internet Abuse

As recommended by the Ontario Ministry of Education, school board policies should now use the following definition for bullying (see Policy / Program Memorandum No. 144):

Bullying is typically a form of repeated, persistent, and aggressive behaviour directed at an individual or individuals that is intended to cause (or should be known to cause) fear and distress and/or harm to another person's body, feelings, self-esteem, or reputation. Bullying occurs in a context where there is a real or perceived power imbalance.

Please refer to *The College of Teachers' publication Professionally Speaking, September, 2007: "Cyberbullying"* by Beatrice Schriever at the following website:

http://www.oct.ca/publications/professionally_speaking/september_2007/cyberbullying.asp

"It's tempting to think that cyberbullying is simply an extension of physical bullying, that bullying is the behaviour and cyber is the means. But the problem is more complex. In this instantaneous and often anonymous world, perpetrators don't seem to fear punishment, and behave as though they were beyond the reach of the law."

Beatrice Schriever, *Cyberbullying*

Cyberbullying includes:

- Electronic social cruelty, becoming more prevalent among adolescents
- Electronic harassment, including doctored e-mail messages, manipulated photos or anonymous e-mails that contain insults, threats, or sexual innuendo
- Many teachers receive unauthorized materials or spam that inundates their system
- Cyberbullying allows participation by an infinite audience
- Anonymity leads to a lack of personal accountability
- Can be based on personal information carelessly posted on the Internet

Cyberbullying victimizes not only students, but also teachers and other school staff. The anonymity of a person's digital persona can lead to a lack of personal accountability, creating the sense that one is beyond the reach of the law. Conversely, the very technology that enables a person to cyberbully others through easy, instant communications allows potential victims to open themselves to cyberbullying by broadcasting their personal information to the world.

Worse, the lax approach that people take to electronic communications, especially those

who grew up in the “Information Age”, can lead some to reveal personal information that they would otherwise not reveal in face-to-face communications. This can be very problematic for teaching professionals who are subject to the Professional Misconduct Regulations and legislation under the *Ontario College of Teachers’ Act*.

Teaching professionals can, and are, routinely disciplined by the College for a failure to respect the boundaries of appropriate teacher-student or colleague to colleague relationships. Often, electronic communications, while handy and fast, have created a realm where the bright line of this boundary, both between students and colleagues, has been somewhat dimmed when compared to face-to-face communications.

2. Problems with Electronic Communications

Problems

- Lack of privacy or security (misleading notions of privacy)
- Lack of access to a school computer in a private setting
- Web sites that malign teachers (i.e. ratemyteacher.com)
- Spam
- Cyberbullying
- Forged or altered e-mail messages
- Identity of sender can be disguised or difficult to trace
- Messages forwarded without permission

Hazards

- Board or school homework web sites
- Online address books
- Unauthorized distribution of e-mail addresses
- Unreasonable expectation that there will be ongoing communication at all hours by parents, administration, students
- Informal communication can be interpreted as lack of professionalism
- permanent written record of conversations (digital footprints)

Risky Behaviour

- Careless messages or messages deemed to be libelous, defamatory, offensive, racist or obscene
- Careless posting of personal information that can be converted or misused by cyberbullies or can lead to inappropriate, familiar communication with students and colleagues
- Visits to web sites deemed inappropriate

- Use of overly familiar and casual tone, or unprofessional comment

No Privacy or Security

- Behave as though you have a reduced expectation for privacy in anything you create, store, send, or receive on the board's computer system or that may be viewed on a student's home computer
- Sending an e-mail message is like sending a postcard: if you don't want it posted on the bulletin board, then don't send it
- There is no guarantee of privacy through external servers
- Teaching professionals risk discipline, up to and including discharge, by visiting web sites deemed inappropriate in addition to other professional consequences

3. Technical Aspects

Definitions

Cache - Memory that holds copies of recently accessed data. Several Web browsers, such as Internet Explorer and FireFox, keep recently viewed Web pages in a cache so users can return to them quickly.

Cookie - A packet of information that a web site stores on a local computer to identify the user on subsequent visits. Can include login and password information of that user as well as monitor how often and for how long a user visits a web site.

Digital Footprint - The trail of data that a person leaves behind through normal Internet use. This trail may be highly visible, such as a MySpace page, or may be invisible, such as data stored in a cache memory.

File Pointer - A flag or marker that a computer operating system, such as Windows, uses to identify data as a specific file. Generally, when a file is deleted, only the pointer is removed; the old data remains on the drive until new data overwrites the old.

Instant Messaging (IM) - A program that allows a user to exchange brief messages with other users that have been added to the individual's personal network. Often called a cross between an open online chat room and private e-mail. Such programs are available on cell phones as well as traditional computers. Examples include MSN Messenger, ICQ, Yahoo Messenger.

Social Networking Service - A service provided over the Internet that allows an individual to create a Web page about themselves. Often, people post personal information on these sites and will link them to their friends' own pages, or the pages of people they met over the Internet. Examples include Facebook and MySpace.

Web-based E-mail - Personal e-mail programs designed to allow users to access their e-mail through any Web browser connected to the Internet. Examples include HotMail, Yahoo Mail, and Gmail.

Web browser - a program used to view web sites and "surf" the Internet. Examples include Microsoft Internet Explorer, FireFox, and Netscape.

Discussion - Why no Privacy?

"In a recent Ipsos-Reid poll conducted for Microsoft Canada, 70 per cent of respondents aged 10 to 14 said that they believe the information they put online is private."

- Clint Thomas, "Discipline over student postings on Facebook highlight need for education: Experts." CP Wire, 30 April 2007.

Electronic communications services:

- e-mail;
- instant messaging programs (MSN Messenger, ICQ, Yahoo Messenger);
- social networking websites (Facebook, MySpace);
- web-based diaries (blogs).

The relationships that these services have facilitated are nothing new, but the amount of information publically available through these services is vast, especially if a user is not aware of their "digital footprint".

Assume everything communicated over the Internet is open to public scrutiny.

- data is easily manipulated and distributed
- e-mails can spread quickly via forwards
- pictures on social networking websites can be easily downloaded and manipulated with easily available software
- personal opinions or information posted on a blog can be shared instantly

These possibilities all contribute to the visible part of one's digital footprint.

Your Digital Footprint - Open Data

- Includes all information intentionally broadcast electronically
- Entries posted in online diaries (blogs)
- Conversations over instant messaging services, or in chat rooms
- Facebook or Myspace pages
- E-mails sent to unsecure recipients / viewed on a public computer
- Personal Web pages

Your Digital Footprint - “Hidden” Data

- Includes all information that you leave behind or broadcast unintentionally
- Data left in a computer’s cache memory - potentially includes *everything* that a user sees in their web browser
- Cookies that identify what web addresses a user has visited and what their login and passwords are
- All deleted data - most deleted data can be recovered, sometimes without the use of sophisticated programs
- Instant messaging programs broadcast a signal to tell others when the user is at their computer, even when a user’s status is “offline”
- Encryption only protects data when in transit from one computer to another

4. Defamation and Labour Relations

Government of Alberta and Alberta Union of Provincial Employees (Grievance of “R”), unreported, April 11, 2008 (Ponak)

A provincial government employee who posted thinly-veiled derogatory descriptions and criticisms of her co-workers and supervisors on several online blogs that she created was justifiably dismissed because this conduct irreparably undermined the employment relationship. In upholding the dismissal, the arbitration board took into account both the hurtful nature of the comments and the employee's belligerent reaction and lack of remorse when she was confronted by management with the blog contents.

- Grievor was an administrative employee and public liaison in a department of the Alberta government that handled sensitive files regarding members of the public that required confidentiality, discretion, and judgment on the part of employees;
- Grievor’s father was ill and subsequently died from his illness - her doctor advised her that writing down her feelings would help her cope with stresses caused by her father's illness and subsequent death so she created a blog

to express these feelings;

- some blog content was work-related, including many critical comments about co-workers, however attempts were made to disguise the identify of co-workers, but people in the office were easily able to identify the individuals being described and criticized;
- Posting examples:
 - "Roberta likes to talk – unfortunately she's menopausal – she might have short term memory problems – always forgets the people's names she's talking about, or the point of her story, or the ending.... If I had to choose a planet that she came from, I'd say it was some dark planet, with very little oxygen."
 - "He's a pleasant fellow always polite and very well dressed. He's somewhere in his 40's, never married and will house sit for any of the people in the office who have a great address.... He also spins records at ... an alternative lifestyle bar downtown. I'm gonna go out on a limb here and say he's from a planet in our solar system – Uranus."
 - "I work in a lunatic asylum. Nurse Ratched (aka, the supervisor) just sent the following e-mail to her staff;" [memo reproduced] "Does anyone else out there live in a world like mine with imbeciles and idiot savants (no offense to them) running the ship and is anyone else's ship being sailed down the highway to hell?"
- when confronted by her managers, the Grievor insisted that she has a right to freedom of speech and, while she is sorry if she hurt anyone's feelings, this is how she feels about some people and she is free to express that;
- the Arbitrator noted that "[w]hile the grievor has a right to create personal blogs and is entitled to her opinions about the people with whom she works, publicly displaying those opinions may have consequences within an employment relationship."
- **key problem:** the Grievor did not attempt to control access to her blog with a password
 - "That a blog is a form of public expression is, or ought to be, self-evident. Unless steps are taken to prevent access, a blog is readable by anyone in the world with access to the internet. The grievor took no steps to prevent access... The Board rejects any professed ignorance on the grievor's part of the public dimension of her blog."

- Arbitrator concluded that the comments could only be characterized as insolent and insubordinate, even though they were not accompanied by a refusal to carry out an order or perform her assigned duties.
- Arbitrator also concluded that "[t]he material contained in the blogs [is] inherently destructive to workplace relationships and inimical to the normal expectations of respect and dignity to which people are entitled when they come to work... Her public ridicule of colleagues was abhorrent and has no place in a work setting. Placing the grievor back into this relatively small workplace would be a further offense to the victims of the grievor's blogs."

Angle v. LaPierre [2006] A.J. No. 304

- The Plaintiffs, a school principal and several teachers, were defamed by the Defendants who made defamatory statements against them and who published some of defamatory statements on the Internet;
- The Defendants included parents who disagreed with the way the principal ran things and became involved in a conflict with him, and other parents who were unhappy with their childrens' teachers - all enlisted the help of SchoolWorks! Inc.;
- SchoolWorks! Inc. engaged in the public critique of teachers, school and the organizations that regulated teachers and schools
- Alberta Teachers' Association (ATA) sent the Defendants cease and desist letters - these were published by SchoolWorks on SchoolWorks' website and SchoolWorks also published the responses to these letters and comments regarding the letters;
- Defendants' public statements resulted in two defamation actions whose common feature was the involvement of SchoolWorks - the Actions were allowed in part as the Court held that plaintiffs and the ATA were defamed by the parents and SchoolWorks;
- The Principal was in a position of trust and responsibility - his integrity, confidence and effectiveness were belittled by these untrue personal attacks and so the Principal was awarded general damages of \$20,000 plus \$3,500 from SchoolWorks;
- Teachers awarded general damages of varying amounts from both parents and SchoolWorks'.

***Newman et. al. v. Susan Halstead et. al.* [2006] B.C.J. No. 59**

- Plaintiffs included several teachers, a retired school trustee, and a parent;
- the Defendant, Susan Halstead, was sued for damages for defamation publishing false statements on the internet and e-mailed these statements to others regarding the plaintiffs;
- The false statements indicated that the educators were violent towards students, unprofessional, incompetent, bullies, and/or the type of people who associated with pedophiles;
- as part of her campaign, the Defendant did the following:
 - posted negative information about these plaintiffs on chat rooms, bulletin boards and a website ("GAFER"), all of which she created;
 - placed some of the teachers' names in close association with teachers who had been convicted of crimes, such as pedophilia, on the GAFER website;
 - posted pictures of the plaintiff teachers on the website - if she did not have a picture of the teacher, she used a picture of an apple with a worm;
 - referred to the teachers collectively as "British Columbia's Least Wanted" and the parent was labeled a "bully" on the website;
 - insinuated that the school trustee was corrupt, a bully, and was unprofessional
 - sent volumes of e-mails to large groups of people, including school officials, media, and politicians;
 - wrote letters to the editor of a local paper which were published regarding the Plaintiffs
- The Court held:
 - that all of the Defendant's statements were untrue;
 - it was defamatory to place bad apples as pictures for some of the teachers;
 - was defamatory to place these teachers in a "rogue gallery" on the same website near teachers who had been convicted of criminal offences;
 - referring to the teachers and the parent as list above was defamatory as these statements and pictures lowered the plaintiffs in the eyes of a reasonable observer;
- Damages awarded ranged from \$150,000 for the most egregious defamation to \$15,000 for the less serious defamation - \$1000 in damages was awarded

to a teacher to whom Defendant apologized;

- Defendant also ordered to pay \$50,000 in punitive damages;
- An injunction was awarded preventing Defendant from making further defamatory statements.

6. Tips

General

- Always maintain a professional demeanor in all interactions with students, parents, colleagues and administrators
- Failure to communicate appropriately puts teachers at risk with the employer, College of Teachers, Children's Aid Society, and police
- Do not e-mail students or communicate via instant messaging services
- Always maintain professional boundaries and avoid communications that could be interpreted as personal
- It may be inadvisable to use your home/personal computer for contact with parents or students

Communicating with students

- Do not e-mail students for personal reasons
- Your messages may be forwarded to a much wider audience - deliberately or unintentionally and they may be manipulated
- Avoid casual, familiar tone that can erode boundaries
- Watch your language
- Do not comment on student-parent or student-student relationships or other colleagues
- Avoid sharing or receiving personal information which might be construed as violating boundaries or "grooming"

Communicating with parents

- Beware that your e-mail can be used as evidence of your conduct
- Your messages may be forwarded to a much wider audience - deliberately or unintentionally
- Avoid lengthy e-mail exchanges that consume a lot of time. In addition to increasing your workload, protracted exchanges may be prone to misinterpretation
- Respect confidentiality: obtain permission to use e-mail communications

Protect Yourself

- Refrain from using a personal computer account for school communication purposes and use caution when using school based computers
- Do not leave a computer unattended when logged into the school board system
- Protect your username and password against identity theft to prevent unauthorized e-mail under your name or access to school documents
- Where possible, change your password(s) on a regular basis
- Respond to complex messages from parents by telephone or face-to-face meeting wherever possible
- Clear the web browser's cache memory after *every session* on a computer
 - ▶ For **Internet Explorer** click on "Tools → Internet Options" and click the following buttons:
 - ▶ "Delete Files"
 - ▶ "Delete Cookies"
 - ▶ "Clear History"
 - ▶ Be sure to check the box to "Delete all offline content" if the box pops up
 - ▶ For **Mozilla Fire Fox** click on "Tools → Options" and then click on the following tabs:
 - ▶ "Cache tab → Clear Cache Now"
 - ▶ "Cookies tab → Clear Cookies Now"
 - ▶ "History tab → Clear Browsing History Now"
 - ▶ "Download History tab → Clear Download History Now" (may not apply depending on computer configuration)

If you do send messages

- Save a copy of the original message
- Use spelling and grammar checks on materials that you plan to e-mail or post on a web site
- Signatures should include your name, assignment title, and school name
- Avoid unnecessary attachments and/or forwards
- Do not write e-mails in capital letters (capitals indicate SHOUTING)
- Never forward a message without permission from the sender first
- Always maintain professional standards when sending e-mails to students, parents, colleagues (including friends) and administrators on board equipment - treat every e-mail as though it is a written letter
- Do not engage in casual gossip on chat lines as it is unprofessional

Appendix A: Illustrative Examples

Issue 1: Facebook - the Billboard to the World

Fact Scenario:

A Grade 8 student posts a message to his friends on his Facebook page from his home computer. The message reads, "I could've sworn I saw Ms. Bloom, my teacher sitting in the back of the room rubbing herself". Up to 30 other students converse on the site, many of them anonymously. Derogatory remarks are also made about other teachers, including one who "gives masturbating tips". For the next few days, some students become withdrawn and uncomfortable in the classes taught by the teachers discussed in the Facebook forum. Letters are sent to the homes of 20 students regarding "misuse of the Internet" and parents are asked to meet with the Principal. Five of these students are barred from a year-end overnight trip.

Questions: What should be done in this scenario?
Principal's Plan of Action
Teacher's Plan of Action

Did the punishment fit the "crime"?

References: Bill 212

Re: York Region Board of Education FACEBOOK Incident in May of 2007

Issue 2 - Blogging: A diary for myself and 10 million of my closest friends

A teacher has kept a blog on an anonymous blog-service web site under a pseudonym for the past two years. In this blog he writes about his political views, perceptions and opinions about society and pop culture, and occasionally about incidents and people that frustrate him at school. Students at this school searching the Internet for information about a recent election find this blog and review it for its references and opinions on the Purple Political Party. During this review, they read about an argument in a school hall between two teachers. The writer of the blog has made several personal comments attacking the integrity of the other teacher. The students and other teachers are able to link the blog entry to an incident at the same school during the previous week.

References:

Ontario Teachers' Federation - Regulation made under the *Teaching Profession Act*

18(1) A member shall,

(b) on making an adverse report on another member, furnish him with a written statement of the report at the earliest possible time and not later than three days after making the report;

(c) notwithstanding section 18(1)(b), a member who makes an adverse report about another member respecting suspected sexual abuse of a student by that other member need not provide him or her with a copy of the report or with any information about the report.

Reference: *Ontario College of Teachers' Act*

Reference: Law of Defamation

Issue 3 - Fuzzy Boundaries

A teacher wishes to improve communication with her students and decides it would be “cool” to start using an instant messaging program popular with her students. One evening she was online and started to converse with a student in her class. First, they talked about the math homework. As the conversation progressed, the student asked the teacher for advice about personal relationships with other students, specifically about boyfriends and girlfriends. The teacher gave what she thought to be practical, prudent, and professional advice to the student. The next day, the student’s parent read the conversation from the student’s messaging log, and reported the conduct as inappropriate teacher-student communications to the principal.

As a result of this complaint, the teacher blocked the student from her instant messaging program, but continued to communicate with other students via the IM program to assist with homework. The student realized that she had been “blocked” by her teacher and then complained that she was singled out and mistreated. She alleged to the Board that she was prevented from getting the same assistance as the other students with her homework.

Questions: Was it a boundary violation to advise about boyfriends and girlfriends?
What should be done now?

Reference: *Ontario College of Teachers’ Act*
Board Policy

ISSUE 4: Free to Express My Opinions

A number of teachers detest the new method of on-line preparation of report cards. They join Ideas Café, a chat site available through the Board's server, and begin to comment on the new system. After a while, the teachers speak to the Board's wrongheaded insistence on this program, how certain teachers in certain schools (who remain nameless but grades are mentioned) are too "lazy" to learn the system or report properly on the progress of students, and how the teacher's union is "falling down on the job" in numerous respects.

The teachers do not reveal anyone's name and claim their *Charter* right to Freedom of Expression.

References: Ontario College of Teachers (Misconduct Regulation)
Regulation under the Teaching Profession Act
Charter of Rights and Freedoms
Law of Defamation

ISSUE 5: On my own time

A teacher comes in to school on a Saturday to complete some overdue marking. She finishes her work on the computer, which is in the back of the classroom, and which is designated for student use. She goes on to the Internet to log into an adult friend finder website which she has used before. This web site allows consenting adults to exchange photos of themselves, and she downloads a photograph of her friend, in risque and scanty dress. When she has finished her on line session, she exits the computer and leaves the school.

Later, to her horror, she receives an e-mail from an anonymous school source, and attached to it is a copy of the same picture of her scantily dressed friend, but with her own head superimposed on it. This picture is widely circulated through the Board's server and is posted on FaceBook.

What are the implications for her?

Reference: Board Policy
Bill 212
Technical aspects

ISSUE 6: Community Involvement

Patrick G is the school's most involved parent. His three kids are at the school and he is a member of the Parent Council. He frequently volunteers to assist the teachers, he cooks for bake sales, and he writes the newsletter. Recently, Patrick has also started a blog. He begins commenting on the new principal and giving her some helpful tips. He also invites other parents to jump in and he posts their comments without editing, on his blog.

Soon, the discussion veers into downright criticism of board policy and individuals. The teachers have to face Patrick every day, on the school council, and in their classrooms, and face his comments and criticisms on a daily basis through his blog. He is kindly and polite to their faces, and claims no responsibility for the comments posted on his website. When the principal gently raises the issue with Patrick, Patrick files a complaint to the College of Teachers against the principal claiming harassment and violation of his rights.

Questions: Is his behaviour appropriate
Is it legal?

Appendix B: Internet Service Contact Information

If you find yourself a victim of cyberbullying or subject to electronic or Internet-based harassment, contact **PRS at 416-962-3836 or 1-888-838-3836** for more information and assistance. PRS will help you to contact the necessary services to remove harmful, embarrassing, or otherwise inappropriate information from their websites.

The contact information of several of the most popular sites and services is listed below. Generally, these services are quick to remove harmful and/or inappropriate material from their sites. Myspace has gone one step further and has developed specific policies concerning cyberbullying and has even developed an area of its site specifically for parents and educators regarding the contents of the site and how to educate and protect young users. Myspace has also develop streaming videos to explain how to put their safety and privacy tips into practice.

Search Engines

Google saves streamlined copies of websites in a large cache database in order to provide faster search results and to maintain its advertising network. Anyone seeking to have information or pictures removed from any website should also contact Google and other major search engines like it, such as Yahoo!, MSN.com, and search.com. Also, most of these sites, as well as other services listed below, are a member of the TRUSTe group, an organization that acts as both a “privacy watchdog” and as a dispute resolution center.

TRUSTe

Most information from search engines and similar services that are members of this organization can be removed from Internet by filing a complaint with TRUSTe through its website, www.truste.org and clicking on “For Consumers” at the top and then clicking on “File a Privacy Complaint”.

Google

Any questions and/or concerns regarding Google's Privacy Policy or Google's treatment of personal information are addressed through Google's web site at <http://www.google.ca/intl/en/privacypolicy.html> or by writing to Google at:

Privacy Matters
c/o Google Inc.
1600 Amphitheatre Parkway
Mountain View
California
94043, USA

Yahoo!

Yahoo does not provide a specific contact address, but does have a specific e-mail page to contact its Privacy Officer at http://help.yahoo.com/fast/help/ca/privacy/cgi_feedback

Services

The following is a list of commonly used services that can be used and abused by cyberbullies. Some of the more reputable services, such as Myspace and FaceBook, are members of the TRUSTe organization and can be dealt with via a complaint filed with TRUSTe, though a direct complaint will likely result in a quicker resolution of the problem if sensitive or inappropriate information must be removed right away. Other services, such as Ratemyteachers.ca, can only be contacted directly.

Ratemyteachers.ca

<http://www.ratemyteachers.ca/contact.php>

John Swapceinski & Michael Hussey
MisterMessage, LLC
7804 Rushing River Ct
Bakersfield, CA
93313, USA

Facebook

privacy@facebook.com

Facebook Privacy Inquiries
156 University Avenue,
Palo Alto, CA
94301

Myspace

privacy@myspace.com

Privacy at Myspace
8391 Beverly Blvd, #349,
Los Angeles, CA
90048

Schoopy.com

This is a relatively new social networking site based out of Toronto that specifically targets social networking in schools and claims to provide a safe social networking experience as an extension of the classroom.

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