

Avoiding Legal Claims & Protecting Your Professional Reputation



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Independent Schools= High Standards

- You are offering a specialized, boutique service.
- Your customers are writing a check for this specialized service.
- The customers have high expectations, are results-oriented, and have driven personalities.
- Faculty, Staff, Coaches...ALL School employees are held to a high standard and must perform with a high degree of professionalism.

Confidentiality and
Loyalty is
Job #1.....



Your customers expect discretion and confidentiality.

Confidentiality

Obligations Outside
the Classroom:

Practice
Confidentiality
**both ON and OFF
campus.**

- Do not identify students online without permission
- Do not disclose health or disability information
- Do not discuss sexual orientation
- Do not disclose disciplinary matters
- Do not discuss familial situations—divorce, separation, child custody unless part of your job to discuss with supervisor

Confidentiality Laws that May Apply

FERPA

- Federal Education Rights & Privacy Act
- **Only if you accept federal funds.**
- Must keep student records confidential, only release with consent.
- Must notify families yearly of FERPA rights.

The ADA

- Health information provided to a place of public accommodation to receive reasonable accommodations is confidential
- This includes: Student diagnosis, medication, accommodations, and parent conditions requiring accommodation on campus.

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HIPAA vs HIPPA

| | HIPAA | HIPPA |
|---|---|--|
| Name | Health Insurance Portability and Accountability Act | Health Information Privacy Protection Act |
| Protects health coverage for people who change jobs. | ✓ | ✗ |
| Requires medical providers to give patients access to their personal health information | ✓ | ✗ |
| Requires medical providers to protect the privacy of health information | ✓ | ✓ |
| Prohibits stores and restaurants from asking for proof of vaccination | ✗ | ✓ |
| Prohibits stores and restaurants from requiring you to wear a mask | ✗ | ✓ |
| Prohibits anyone from asking you for any health information for any reason | ✗ | ✓ |
| History | Passed by Congress and signed into law by President Bill Clinton in 1996. | Invented by people on the internet during the COVID-19 pandemic. |
| Is it a real law? | ✓ | ✗ |



Does HIPPA Apply to Private Schools?

Generally,
NO.

The HIPPA Privacy rules apply **ONLY** to:

1. Health plans
2. Health care clearinghouses,
3. Health care providers **that transmit health information electronically in connection with certain administrative and financial transactions** (“covered transactions”)
45 CFR § 160.102

School nurses, psychologists, counselors.... Not covered entities because generally not billing a health plan electronically for their services.

Breach
of
Confidentiality

=

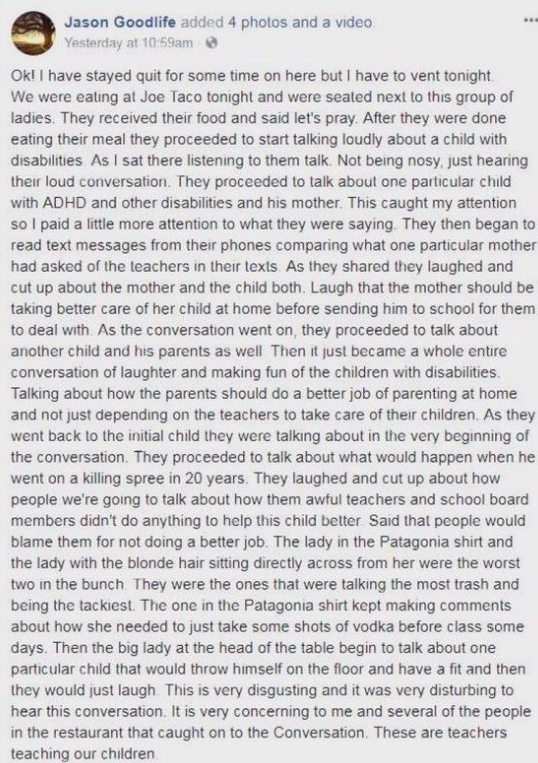
Breach
of
Professionalism

You must choose between being the
source of good gossip or a professional.

You can't be both.

Case Study: Gossip Off Campus

- FB Post about Teachers Talking about Students at Dinner
- Photo Used to Identify Teachers and Staff



Maintain
Boundaries
with your
Student
Population



Establish Boundaries with Students

- DO NOT engage in gossip or spread rumors with students.
- DO NOT forget that students are **children**
- Maintain a healthy adult/child relationship
- Review your School's Boundary Policy in your Employee Handbook.
 - no transporting in personal vehicles, no babysitting, outside socializing **without permission**
- Be the adult, not the friend.

Maintain
Physical
Boundaries....



You should have NO intimate physical contact with students.



Gen Z is the Post-
#MeToo Generation.

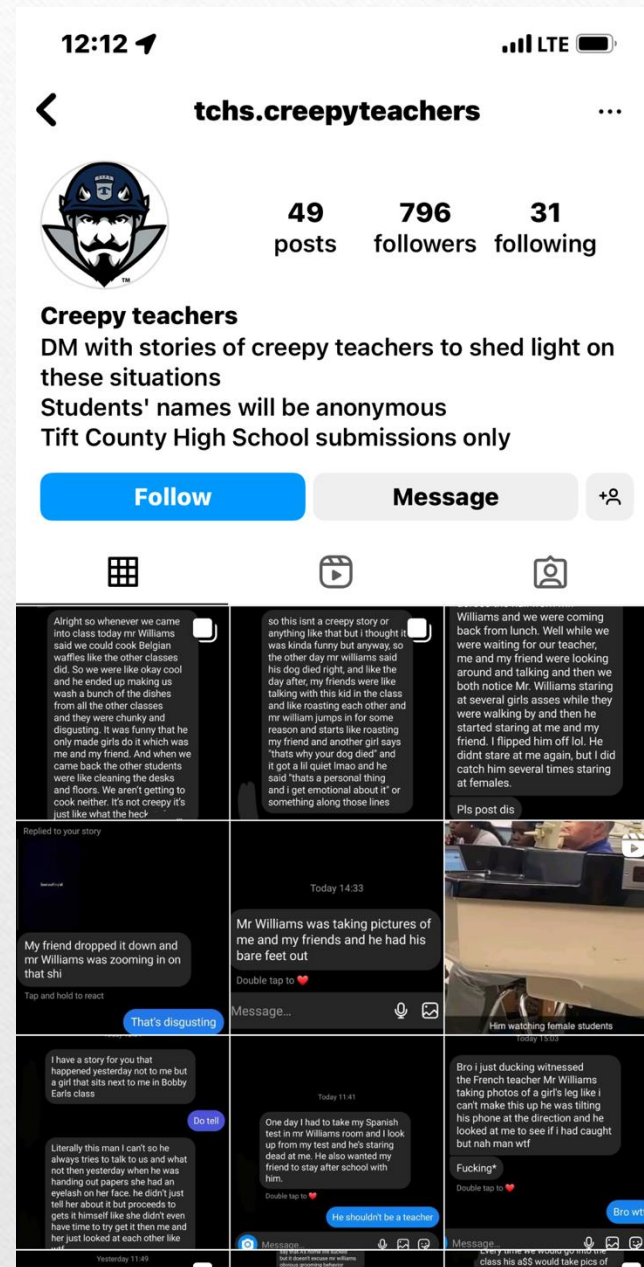
They are
empowered.

They will out you.

Gen Z is
empowered to use
Social Media to call
out injustice....

Tift County High
School
Tifton, GA
2024

“Creepy Teachers”
Instagram Account



Casual vs. Intimate Touch

Casual

- Handshakes
- Fist-bump
- High-fives
- Pat on the back
- Holding a small child's hand for safety/comfort

Exceptions for nurses, athletic trainers: touch must be related to service

Intimate

- Hugs...generally. Side hugs only. Rare exceptions for students in grave distress.
- Sitting in laps
- Massaging shoulders or other body parts
- Placing arms around shoulders
- Rubbing back, caressing, touching cheek
- Touching bra straps
- Touching waistlines, hems of shorts, skirts, or shorts.
- Touching knees or any areas above knees
- Any touching in a private, secluded area with no other adult present

Are there exceptions? Yes

Case Study

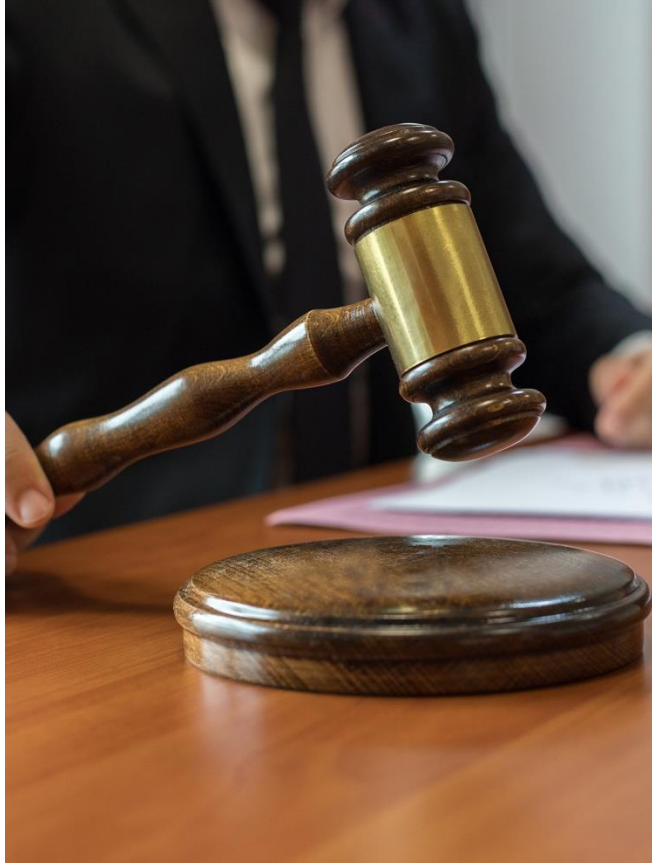
The Graduation Party
Gone Wrong

Sarasota, FL



Dealing with Difficult Parents....






When dealing with divorced parents/ Custody disputes:

DO NOT Pick a Side

- There's always more to the story
- Must remain a neutral party, interested only in the child's welfare
- High incidence of manipulation
- You are also NOT the child's advocate
- We owe an obligation to both parents— both contractual and arising out of natural parental rights.



Types of Legal Documents you Might See

Marital Settlement Agreements

- What the adults agree to do
- Usually addresses custody, who makes school decisions, who is financially responsible.

Parenting Plans

- Addresses custody, shared parenting, and who makes educational decisions

Guardianship Documents

- Set up to give rights to someone other than a natural parent to care for and make decisions for a minor.
- Creates a “legal guardian.”

Power of Attorney

- Typically does not address minors or create any rights unless it specifically states. A “General Durable Power of Attorney” usually does not extend powers over minors.

What is a Subpoena?

- Subpoena is a court order to produce something— usually documents.
- A “Subpoena Duces Tecum” just means a request to mail documents to the requesting attorney.
- A “Subpoena for Deposition” means the recipient has to show up in person to give a recorded statement under oath.

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT
IN AND FOR ORANGE COUNTY, FLORIDA

CASE NO.: [REDACTED]

[REDACTED]
Plaintiff,

vs.

STARBUCKS CORPORATION DBA
STARBUCKS COFFEE STORE #63983 and
[REDACTED] INDIVIDUALLY AND AS
STORE MANAGER OF STARBUCKS COFFEE
STORE #63983

Defendant.

SUBPOENA DUCES TECUM WITHOUT DEPOSITION

TO: RECORDS CUSTODIAN

[REDACTED] School

YOU ARE HEREBY COMMANDED, to deliver to the Law Offices of QUINTAIROS, PRIETO, WOOD & BOYER, P.A., 255 South Orange Avenue, Suite 900, Orlando, Florida 32801 within ten (10) days of the date of this Subpoena the following documents:

EVERY WRITTEN PIECE OF PAPER (handwritten or typed) CONTAINED WITHIN YOUR FILE, AS WELL AS A COPY OF ANY NOTATIONS ON THE FILE JACKET, OR OTHERWISE IN THE POSSESSION OR UNDER THE CONTROL OF THE WITNESS, WHETHER PREPARED BY YOU OR FROM ANOTHER SOURCE. RECORDS SHOULD BE ALL INCLUSIVE AND IN NO WAY LIMITED TO ONE INCIDENT. THEREFORE, THIS ALSO INCLUDES, BUT IS NOT LIMITED TO:

YOUR ENTIRE FILE WITH ALL CONTENTS, INCLUDING BUT NOT LIMITED TO ANY AND ALL RECORDS PERTAINING TO [REDACTED] INCLUDING BUT NOT LIMITED TO ADMISSION RECORDS, TRANSCRIPTS, GRADE POINT AVERAGE, EVALUATIONS, TEST RESULTS, ATTENDANCE RECORDS, DISCIPLINARY RECORDS, TEACHER NOTES, INCIDENT RECORDS, EXTRACURRICULAR ACTIVITIES, VOLUNTEER ACTIVITIES, ATHLETIC ACTIVITIES, PHOTOGRAPHS (INCLUDING YEARBOOK), MEDICAL RECORDS, CORRESPONDENCE. AND ANY AND ALL RECORDS WHATSOEVER YOU MAY HAVE; FROM THE INCEPTION OF YOUR RECORDS TO THE PRESENT REGARDING:

What is a Subpoena?

- The deadline is not set in stone. Extensions are often granted.
- Contact the office of the attorney issuing the Subpoena and request an extension—a few days to a week is customary.
- Confirm via email the new due date.

██████████ v. Starbucks Corporation
Case No. ██████████
██████████ School
Page 3 of 4

OF COURT. You are subpoenaed by the attorney whose name appears on this subpoena and unless excused from this subpoena by the attorney or the Court, you shall respond to the subpoena as directed.


DATED this 19 day of Nov, 2024.

For the Court:



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sbaker.pleadings@qpwblaw.com
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QUINTAIROS, PRIETO, WOOD & BOYER, P.A.
255 South Orange Avenue, Suite 900
Orlando, Florida 32801
(407) 872-6011 Telephone
(407) 872-6012 Facsimile
Counsel for Defendant, Starbucks Corporation





For all Legal Documents....

- Insist on a fully signed copy...not a blank unsigned copy. Should have a Judge's signature.
- Natural parents who do not have custody or sign the enrollment agreement STILL have a right to information— grades, report cards, teacher meetings.
- Do not accept a single page of a 28 page document....

Dealing with Difficult Parents

- Don't ever lose your cool. Always be the professional.
- Parents who are abusive over the phone, restrict them to email only.
- Involve BOTH parents if one is the problem.
- Rely on your “parental cooperation” clause
- Give them a job...PTA, volunteer position, volunteer coach, etc.
- Remind them.... “We are just a School.”

Communication & Documentation

Best Practices



What Must be Produced in Litigation.....

- Notes you've taken
- Summaries of meetings
- All emails
- Text messages
- Recordings of phone calls, meetings, or video conferences
- Video surveillance
- Back up computer drives
- Laptops
- Personal laptops if you use it for work
- Calendars
- Anything you might take notes on



IF YOU DON'T WANT IT
TO BE READ OUT
LOUD...IN COURT...DON'T
WRITE IT DOWN.

THE 2025 VERSION....

If you don't want it to be tweeted, reposted, shared millions of times....covered by the Washington Post, the NY Times, TMZ, and the London Mirror, or have 4,000 TikToks made about it.....

DON'T WRITE IT DOWN.

Case Study: Blackstone Valley Prep



- “I wish we could hit them.”
- “He’s failing five classes, F----- idiot.”
- “Here’s how Hudson spelled Ta-Nehisi Coates: Tonaheese quotes,”
- “f----- idiot.”
- “losers” “brats” “toxic”
- Teachers suspended, then fired, and two were dismissed from Teach for America.
- Made National news

Work Communication with Colleagues Should Follow these Rules

1. Assume it is public—are you OK still sending it?
2. Be direct and clear but not short.... “OK”... “Fine” ... Does it sound begrudging? Combative?
3. Skip the emojis and acronyms... “WTF” or 😐 or 😊
4. Never vent or complain about colleagues via email– once written down it lasts.
5. Don’t secretly forward an email without permission– modern day “talking behind someone’s back”
6. Don’t email when angry or upset

Work Communication with Customers Should Follow these Rules

1. Use company logo, signature block to enforce professional tone.
2. Never use ALL CAPS or multiple !!!!
3. Skip the emojis and acronyms...
“WTF” or 😐 or 😊
4. If it's really important or sensitive, call first
5. Don't respond when angry...frustrated or after a glass of wine.
6. Use Email over Text. Text is too susceptible to auto correct, and may not be recoverable to protect you.
7. Spell check (Name spellings), check grammar, then double check

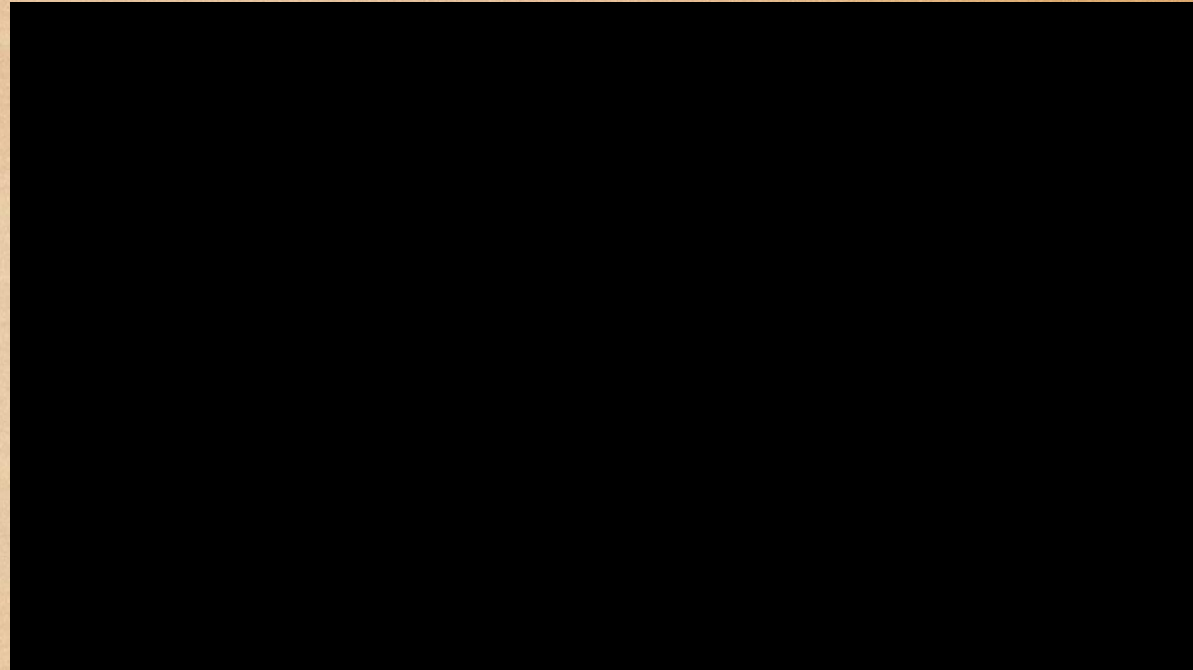
Case Study: The Sloppy Email

- LS Admin sends email to parent regarding behavioral problem with 3rd grade student
- Email is hastily written
- Spelling errors, including child's name...Grammatical errors
- **Parent posts email to FB and mocks writing**

Case Study:

“I’m Not a Cat”

Technology is
hard...spend time
getting familiar before
using it.



Maintain a
Professional
Appearance Online
that Reflects a Role
Model for Children

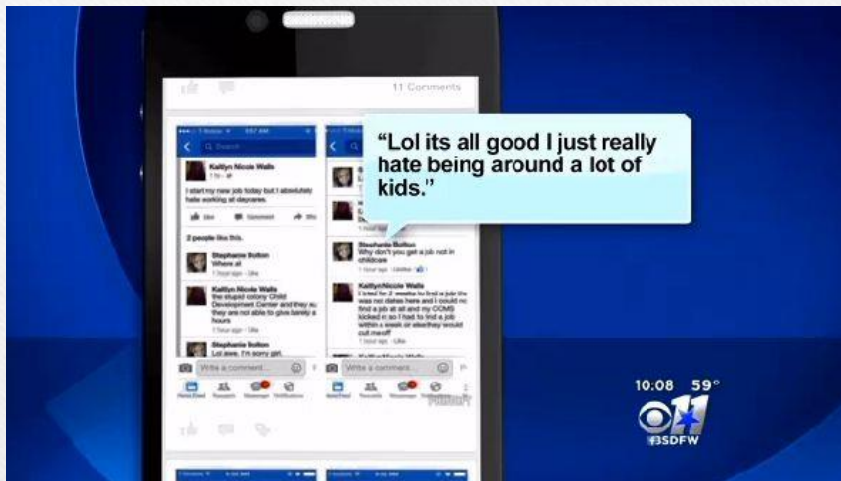


Use Social Media Wisely

- Do not post unprofessional photos
- Use Timeline Review, Groups, and other privacy features when on Facebook— check your history!
- Do not Post/Text during working hours
- Do not post, blog, or make Reels/TikToks complaining about or making fun of your students.
- Do not post students names/photos without EXPLICIT permission

Case Study: Don't Post about NOT liking Children

New Employee Posts on Facebook



- Day care new hire Kaitlyn Walls posts
- “I start my new job today but I absolutely hate working at day care.”
- Shared with 8,000 people in a community group

Case Study: TikTok Videos



Teacher Rebecca Krall , May 2024

- Posted 13 videos to TikTok
- One to song "Then I got High..."
- Used words "b*tch...bad b*itch"
- Used hashtags like #daydrinkingmom
- Posts "Glorified alcohol abuse"
- Discussed pornography, used sexual terms

Sued District, Went to Arbitration. Arbitrator Found for School:

"if an educator chooses to maintain a separate personal identity on social media that conveys a message so grossly at odds with the educator's professional responsibilities, it is incumbent on the educator to make sure there is a stout firewall of separation between the two. That is not what happened here."

**Your public profile should always
depict someone that is an
advocate and role model for
children. Period.**