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Into the Tangled Web: K-12 Educators, Free Speech Rights, and Social Media

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Into the Tangled Web: K-12 Educators, Free Speech Rights, and Social Media

A dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy at Virginia Commonwealth University.

by

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Dedication

Roses are red.
Violets are blue.
To my beloved wife Kasey,
This is for you.
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Abstract

INTO THE TANGLED WEB: K-12 EDUCATORS, FREE SPEECH RIGHTS, AND SOCIAL MEDIA

By John David Andrews, Ph.D.

A dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy at Virginia Commonwealth University.

Virginia Commonwealth University, 2012

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Much attention has recently been given to K-12 educators and their use of social media. This quantitative study surveyed a targeted sample (n = 543) of known social media users to learn about K-12 educators’ use of social media, their legal knowledge of the First Amendment as it relates to free speech and education, and their dispositions toward the First Amendment. Survey respondents self-reported levels of social media use, completed a legal knowledge section, and responded to a series of items used to gauge their disposition toward the First Amendment. These were analyzed through various demographic and contextual factors in addition to analyses of variance, correlations, and a regression analysis. Findings identified a critical mass of K-12 educators are using social media, and some use social media to a great degree. This sample also reported an overall lack of legal knowledge of the First Amendment as it relates to free speech and education. Additionally, whether or not one had been questioned or chastised about his or her social media use, whether or not one worked for an administration that was “extremely supportive” of social media use, whether or not one had administrative responsibilities, and one’s disposition toward the First Amendment were significant predictors of social media use for the educators in this sample. Findings in this study suggest schools should
train and use administrators to educate their K-12 employees about social media use, the First Amendment, and related school policies. Additionally, school policies should not focus on social media use; instead, they should address particular behaviors. Finally, schools intending to embrace social media should seek to employ administrators who are “extremely supportive” of social media use.

*Key words:* social media, First Amendment, free speech, teachers, administrators, policy, legal knowledge
CHAPTER 1  
Introduction

As public servants, public educators sometimes walk a fine line between carrying out the government interest in educating its citizens and their own personal convictions. In some situations, when people express themselves, the message can be somewhat incendiary, and this can pose a problem for educators on all levels as well as the public interest. Nonetheless, public educators have rights and responsibilities. Some responsibilities—even perhaps as a sense of duty—can be highly subjective, and these can lead to intense debate about what is and is not public concern.

Enter Mrs. Q. A parent and a teacher, Mrs. Q. (a pseudonym of her creation to remain anonymous) became fed up with school lunch and crafted an idea in December 2009 to eat school lunches for the following year and blog about them. She did just that with a title that did little to hide her feelings about school lunch. Mrs. Q. began the blog Fed Up With School Lunch: The School Lunch Project in January of 2010. For the lunch she had each day, Mrs. Q. uploaded a picture, a description, and a review. Frequently throughout, Mrs. Q. also posted commentary. Needless to say, the project began as criticism of the school lunch Mrs. Q. saw at her school, and she was critical in her blog. Because of this criticism, several questions arise. Was she doing what was best for the school? After all, what if she had upset administrators, community members, other teachers, and of course, the school food providers and workers? Could this have caused a rift that would have damaged the school and work environment? Should she have taken this project on? Did she even have the right to?

To be sure, anecdotes of perceived school lunch injustices abound and have even been the focus of a television series. ABC aired Jamie Oliver’s Food Revolution in 2010, which chronicled his displeasure with school food and attempts to change the offerings in the Cabell County School System in Huntington, West Virginia. There is research discussing “Why Education Researchers Should Take School Food Seriously” (Weaver-Hightower, 2011). Citing multiple research articles, Weaver-Hightower claims that school food affects many aspects of education and merits several areas of consideration for study: health and academics, teaching and administration, the role schools play in teaching about food, identity and culture implications, environmental implications, educational politics and policies, school food as a big business, and
school food affects social justice. Given Weaver-Hightower’s position, school food is an issue of public concern.

Assuming, then, that school food truly is an issue of public concern, then Mrs. Q.’s “speech” would be protected since it is not a part of her official duties as a teacher. If her blog is then protected speech, she should feel free to “speak freely” without concern of repercussion. This, however, is not the case, at least according to Mrs. Q. In the FAQ section of her blog, Mrs. Q. responded to the frequently asked question of why she remains anonymous by stating, “Although I feel passionate about child nutrition, I believe that being anonymous is the best thing for my professional career. I really want to reveal more, but it's not safe for me personally” (2010). In an ABCnews.com article, Mrs. Q. is quoted as saying, “I can't predict how my principal would react to this. I really like my school and I don't want a different job” (Netter, 2010). Whether or not these fears are legitimate, they are nonetheless real, and to single out Mrs. Q. for her ignorance of the First Amendment as it pertains to public schools would be grossly unfair. She is far from alone (Schimmel & Militello, 2007).

Mrs. Q. has a method that allows her to voice her concerns, yet remain anonymous. Her blog might raise concerns that would have otherwise gone unrecognized. Mrs. Q. wrote in one blog, “In my professional life, I don't make waves. I avoid conflict. I'm a ‘yes’ man. I do what I'm told, but I love my job so it's not hard.” Depending on one’s point of view, she fittingly titled this January 17, 2010 blog entry “On being a chicken.” The technology of the twenty-first century makes it possible for Mrs. Q. to have it both ways. Despite her original concerns and apparent ability to remain anonymous, Mrs. Q. has recently shed that anonymity and published the related book *Fed Up with Lunch: The School Lunch Project: How One Anonymous Teacher Revealed the Truth About School Lunches—And How We Can Change Them!* (Wu, 2011) effectively ending any issues that might have ensued from others’ attempts to uncover her identity without her approval. Her story highlights an increasing power citizens have to voice opinions, and because of this, there are many questions for educators and citizens as they relate to the First Amendment right to free speech and public schools.
Background for the Study

Internet use has grown to include the vast majority of Americans. People are logging on to the Internet in droves, and many are using social media to interact with others. Lenhart, Purcell, Smith, and Zickhur (2010) have released statistics detailing how pervasive Internet use, social media use, and wireless technology have become:

- 93% of 18-29 year olds have been online
- 74% of all adults ages 18 and older go online
- 72% of 18-29 year olds use social networking websites
- 47% of online adults use social networking websites
- 55% of 18-29 year olds have wirelessly accessed the Internet on a cell phone
- 75% of teens and 93% of 18-29 year olds have a cell phone

In light of this information, one could reasonably argue much of the American population uses the Internet and social media. K-12 educators are no exception; 61% have joined at least one social networking website (edWeb.net, MCH, Inc., & MMS Education, 2009). Additionally, recent research funded by the Knight Foundation identifies the respective percentages of high school educators doing the following activities at least about once per week: getting news and information from online sources (95%), getting news and information from mobile devices such as a cell phone (40%), watching videos on websites such as YouTube (57%), using online social networking such as Facebook to get news and information (43%), text messaging or going online to instant message (40%), going online to participate in online discussions or chat groups (12%), posting messages or opinions to online columns or blogs that may be read by the general public (10%), and trying to find new friends online through social networks (7%) (Dautrich, 2011).

The widespread use of the Internet and social networking websites has not escaped controversy in K-12 education. Indeed, several cases have garnered much media attention involving educators across the United States, including in Texas, Florida, Maryland, California, and Virginia where educators have either found themselves dismissed or facing a high level of public scrutiny over information posted on social networking sites (Carter, Foulger, & Ewbank, 2008). Even though their activities have been somewhat sensationalized and are not necessarily deliberate attempts to flaunt free speech, the bottom line is that others are watching.
As incidences of alleged educator misconduct surface in the news and numbers indicate a widespread and increasing use of social networking websites, educators might or might not be aware of their legal rights and responsibilities according to the law. Simply, there is currently little information about how K-12 educators are using social media. As more and more educators engage in online activities, the need to understand what educators are doing online increases.

**Overview of the Study**

This study seeks to describe the ways K-12 educators behave online, measure K-12 educator knowledge of free speech rights, measure K-12 educator dispositions toward free speech, and uncover any demographic or contextual factors mediating relationships among them. The researcher will use a true/ false/ unsure survey to measure First Amendment knowledge. Additionally, the researcher will use a series of Likert scale items to determine dispositions toward free speech as well as levels of social media use. For the contextual factors mediating these relationships, a scale will be determined by the response to three yes/ unsure/ no questions and two Likert scale items. These instruments will be developed and piloted before being revised and used. The population studied will come from a purposeful sample of subscribers to the faculty advisor’s social media publications, such as twitter and his blog. Data will then be compiled and analyzed to complete a picture of online behavior and the understanding of free speech rights and dispositions toward them. The ultimate goal is to understand the relationships between levels of online expression and educators’ dispositions toward and knowledge of free speech laws.

More specifically, the study will address several key questions. First, the study will determine the extent to which K-12 educators are utilizing social media through a 15 item self-report question, which asks about various social media tools. Second, the study will consider K-12 educators and their legal knowledge concerning education and the First Amendment through a 13 item true/ false/ unsure test. The number of correct responses will determine the level of knowledge. Next, the dispositions of K-12 educators toward the First Amendment as it relates to free speech and education will be determined by a seven question Likert-type disposition scale. The extent to which each educator agrees or disagrees with each statement will be averaged to calculate an overall disposition scale. Furthermore, the study will investigate the relationships
between K-12 educator legal knowledge, dispositions toward the First Amendment as it relates to free speech and education, and K-12 educator level of social media use. Last, demographic and contextual factors mediating social media use will be studied. Correlation analyses as well as Analyses of Variance (ANOVAs) will be performed to reveal relevant information.

**Brief Overview of the Literature**

The First Amendment guarantees American citizens the right to free speech with a few notable exceptions. Public employees face additional restrictions. As employees of the state, K-12 public educators walk a troublesome line between being a government official and being a citizen with unfettered rights. The major pivotal case for educators exercising their free speech rights is *Pickering v. Board of Education* (1968). In this Supreme Court case, the justices ruled that educators have the right to free speech on issues of public concern. Most recently, the Supreme Court ruled on free speech rights case that has tremendous implications for education. In *Garcetti v. Ceballos* (2006), the Supreme Court ruled that speech by a public official is only protected if it is engaged in as a private citizen, not if it is expressed as a part of the official’s public duties.

Public educators, like all Americans, are living in an age of technological innovation. The concept of Web 2.0 eludes simple definition, but it essentially represents technology where the value is increased by those who use it; it is the read-write web. For example, the users of Facebook add value by sending messages, uploading photos, and forming social networks among other things that improve the experience for its users. Facebook, as well as many other Web 2.0 applications, have collectively fallen under the moniker of social media. Social media technology has taken personal interconnectivity and communication to unprecedented levels.

Now more than ever, Americans are engaging in online activities. As many as three-fourths of Americans are going online (Rainie, 2010). When they connect to the Internet, they are not simply passive observers. According to Madden (2010), 61% of Americans have used social networking sites. Smith (2010) notes that as much as 30% of users have posted something created by that individual. In brief, many Americans are going online and actively engaging with others. As evidenced by descriptive statistics, educator behavior online is relatively similar to that of the general population (edWeb.net, MCH, Inc., & MMS Education, 2009).
With the current pace of technological advancements and rate at which people, including educators, are contributing and publishing to the web, governments have been unable to keep up in regulating content. Even in the event that there might be some desire for very little regulation on content, there must be at least some form of content regulation to protect the rights of citizens. In light of this, the legal system must be involved, particularly in regards to the First Amendment. Since educators are involved with online activities and bound by such law, a review of educator online activity and whether or not educators properly understand the law seems prudent.

Research exists on K-12 educators and their understanding of the law, but it paints a grim picture. A recent study of K-12 educator understanding of the law as it pertains to education revealed that educators are not as knowledgeable as they should be in terms of the law as it applies to their profession. In a study of more than 1,300 K-12 teachers in 17 states, Schimmel and Militello (2007) found that (1) most educators are uninformed or misinformed about student and teacher rights; (2) have taken no course in school law; (3) get much of their school law information from other teachers; (4) would change their behavior if they knew more about school law; and (5) want to learn more about these issues. These authors also note how this confirms prior studies about teachers’ lack of legal knowledge (Gullatt & Tollett, 1997; Koch, 1997; Wheeler, 2003).

There is a small amount of research on high school teachers and their feelings toward the First Amendment (Dautrich, 2011). Two-thirds of those surveyed disagreed that the First Amendment goes too far in guaranteeing freedoms, and 53% personally thought about the First Amendment.

**Rationale for the Study**

Generally, the First Amendment’s right to free speech is only limited under a few circumstances, such as obscenity, defamation, incitement, “fighting words,” and child pornography. For public officials, the right to free speech is further limited by case law. In particular, protected speech for public officials must be of public concern and not related to official job duties (Pickering v. Board of Education, 1968; Mt. Healthy v. Doyle, 1977; Rankin v. McPherson, 1987; Connick v. Myers, 1983; Garcetti v. Ceballos, 2006). Public school educators, therefore, face some constraints on how they may legally express themselves. At this
point in time, the growth in use of social media permits educators unprecedented opportunities to express themselves (edWeb.net, MCH, Inc., & MMS Education, 2009). Whether or not these educators are operating within the limits of the law or even considering legal ramifications is unknown. For the most part, prior research indicates that educators generally lack legal knowledge, including understanding of First Amendment issues related to speech and expression (Schimmel & Militello, 2007; Ogletree & Lewis, 1986). Lack of understanding of legal issues around speech and expression could both cause educators to engage in social media in ways that are inappropriate, but could also hinder valuable expression of ideas.

If the democracy of the United States depends on an educated citizenry and the responsibility of providing that education falls on K-12 educators, these educators have a vested interest in the expression of ideas as part of an ongoing dialogue to provide the best possible education for American citizens. In order for this dialogue to be meaningful, educators need to exercise their right to free speech and communicate ideas back and forth. As technology has evolved, research and the law have not kept pace. If educators are going to have meaningful discussions about education and protect this democracy, more must be known about our K-12 educators and how they are exercising their right to free speech online.

**Purpose for the Study/ Statement of the Problem**

Understanding the vital role that free speech plays in democracy, the founding fathers included it in the First Amendment of the Bill of Rights. Some might even argue that free speech is the keystone of democracy. Even at this, that does not mean that free speech is not without its problems, particularly when interests are conflicted. In K-12 public education, the United States has a vested interest in the education of its citizenry, including the teaching and learning of some controversial subjects. At the same time, appointed agents of the state, such as teachers, may not legally violate the rights of citizens. To fully protect the rights of citizens, limits on the freedom of speech for school employees might be necessary. With compulsory education, a difficult balance must be maintained to serve the interests of the government and protect the rights of its citizens. When Foulger et al. (2009) considered their study, they concluded: “If we suggested that educational institutions ban the use of social networking tools, our position could stymie the development of innovative uses of these types of tools for teaching and learning. On the other hand, if we promoted educators’ free speech rights, no matter what the
medium, educational institutions might be prompted to develop rigid guidelines for the use of such sites by their teachers and students.” Despite the difficulties presented, both the government and its citizens have an interest in the manner that social media are used. Even if they are not used as pedagogical tools, the possibility exists that issues could arise to complicate the educational process. For example, questionable online behavior of a K-12 educator could raise questions and concerns that would have to be addressed. Ultimately, where does the balance settle? What is happening? These questions could prove vitally important to the stakeholders in education.

**Research Questions**

This study seeks to answer five research questions:

1. How and to what extent are K-12 educators utilizing social media?
2. What do K-12 educators know about First Amendment law as it relates to free speech and educational issues or concerns?
3. What are the free speech dispositions of K-12 educators?
4. How are educators’ knowledge of and dispositions toward the First Amendment related to their use of social media?
5. What demographic or contextual factors mediate those relationships?

**Design and Methods**

Data will be collected from a sample of educators through the use of a Web-based survey. The researcher will use a set of items using a five-point scale to determine their dispositions toward free speech as it relates to the First Amendment. Additional Likert-scale items will be used to measure online behavior. The other measure will consist of a true/ false/ unsure test based on case law designed to measure the accuracy of understanding of First Amendment free speech rights related to education. The last scale to determine mediating factors will come from responses to three yes/ unsure/ no questions and two Likert scale items. These instruments will be developed, piloted, revised, and employed in the research. From these instruments, the researcher will generate descriptive statistics and conduct bivariate analyses to look for relationships among key variables.
For example, one variable will be the extent which K-12 educators are utilizing social media through a 15 item self-report question, which asks about various social media tools. The first item asks the participant to rate the level most closely represents how often he or she reads others’ Facebook posts: never, rarely, occasionally/sometimes, a moderate amount, or a great deal. Responses will be compiled to determine the participant’s level of social media use.

Second, the study will ask K-12 educators about their legal knowledge concerning education and the First Amendment through a 13 item true/false/unsure test to create another variable. The number of correct responses will be used to figure the level of legal knowledge. Respondents will be asked to select true, false, or unsure for statements such as “A teacher can be fired for belonging to a communist, Nazi, or revolutionary organization.”

Yet another variable will be determined by a seven question Likert-type disposition scale to determine how the participant feels toward the First Amendment as it relates to free speech and education. The respondent will be asked to identify whether he or she almost completely or completely disagrees, somewhat disagrees, is neutral or unsure, somewhat agrees, or almost completely or completely agrees with statements such as “The right to free speech is one of the three most important rights Americans have.”

Last, the responses to five questions will be used to analyze mediators of social media use. Three of the questions will be yes/unsure/no. One of these questions is “Does your school or district have a social media policy for educators?” The other two items are Likert scale items. For example, one question asks “How concerned are you that you could be disciplined for expressing yourself online?”

Once these variables have been determined, the study will investigate the relationships between K-12 educator legal knowledge, dispositions toward the First Amendment as it relates to free speech and education, K-12 educator level of social media use, and demographic and contextual factors mediating those relationships. These items will be viewed through correlation studies as well as Analyses of Variance (ANOVAs) and a regression analysis to determine significant relationships.
**Definition of Terms**

categorical variable – a variable used to assign an object or person to a group (level) that is defined by having specified characteristics (McMillan, 2004).

dichotomous variable – the most simple type of categorical variable that has only two groups (McMillan, 2004).

disposition – prevailing tendency, mood, or inclination.

freedom of speech (free speech) - The right, guaranteed by the First Amendment to the U.S. Constitution, to express beliefs and ideas without unwarranted government restriction (freedom of speech).

K-12 educators – those individuals employed in educational learning facilities who have a direct impact on the instruction of students at grade levels Kindergarten through 12th grade by means of instruction, such as a teacher, or administration.

social media – forms of electronic communication (as Web sites for social networking and microblogging) through which users create online communities to share information, ideas, personal messages, and other content (as videos) (social media).

social networking websites—Web-based services that allow individuals to (1) construct a public or semi-public profile within a bounded system, (2) articulate a list of other users with whom they share a connection, and (3) view and traverse their list of connections and those made by others within the system. The nature and nomenclature of these connections may vary from site to site (Boyd & Ellison, 2007).
Web 2.0—Like many important concepts, Web 2.0 doesn't have a hard boundary, but rather, a gravitational core. You can visualize Web 2.0 as a set of principles and practices that tie together a veritable solar system of sites that demonstrate some or all of those principles, at a varying distance from that core (O’Reilly, 2005).

Figure 1

*Web 2.0 Meme Map*
CHAPTER 2

Review of the Literature

The First Amendment

Thomas Jefferson claimed that a democracy cannot be both ignorant and free. This attitude and the desire of the founding fathers to guarantee the protection of individual liberties of the citizens in this fledgling nation led to the adoption of the First Amendment, which states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.” Individuals’ First Amendment rights were later strengthened by the equal protection clause of the 14th Amendment, which prohibits state and local governments from abridging these rights. Of the five protections of the First Amendment (freedom of religion, freedom of speech, freedom of the press, the right to peaceably assembly, and the right to petition the government for a redress of grievances), this study is primarily concerned with the freedom of speech.

Even though free speech is guaranteed by the First Amendment, that guarantee is not absolute. Generally speaking, most speech is protected by the First Amendment, but there are several categories that are exceptions. Obscenity and indecency, for example, are not protected as free speech. In Miller v. California (1973), the Supreme Court outlined a three part definition for obscenity: first, the average person, applying contemporary community standards, must find the work, taken as a whole, appeals to prurient interests; second, that it depicts or describes, in a patently offensive way, sexual conduct as defined by state law; and third, that the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. Additionally, the Supreme Court also determined that child pornography is not protected speech (New York v. Ferber, 1982).

Another form of speech, defamation, is not protected either. During the Civil Rights Era of the 20th century, the Supreme Court changed the nature of defamation cases in New York Times Co. v. Sullivan (1964). This pivotal case gave increased protection to those accused of defamation. Now, in general, several elements must be in place to win a defamation cases. First, the plaintiff must be identifiable from the speech, which two, must be “published” or disseminated to a third party. Third, the speech must be defamatory in meaning. Next, the
speech must be objectively verifiable as false, and last, the defamation must cause specific and actual damages.

Two other types of speech fail to qualify as well. Speech that causes incitement to “imminent lawless action” is not protected under the First Amendment (Brandenburg v. Ohio, 1969). Although such speech is unprotected, the Supreme Court held that the “mere advocacy” of violence is, per se, protected speech. The other type of speech that fails to qualify, “fighting words,” has been refined since the initial ruling in Chaplinsky v. New Hampshire (1942). When the Supreme Court opined on R.A.V. v. City of St. Paul (1992), they limited “fighting words” to words that were “of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.”

Thus, there are several exceptions to absolute free speech. Just as there are stipulations based on the content of the speech, there are also stipulations based on the citizen. In particular, public employees face a level of First Amendment scrutiny that other employees do not face. On one hand, public employees are citizens with First Amendment rights. On the other hand, they also provide a service that benefits the government and public. At times, there can be a conflict between the two, and this provides the backdrop for another difference between protected and unprotected speech.

Public Employees and the First Amendment

The free speech rights of public employees have been tested through case law. In 1967, the Supreme Court ruled in Keyishian v. Board of Regents that “The theory that public employment which may be denied altogether may be subjected to any conditions, regardless of how unreasonable, has been uniformly rejected.” In this case, the plaintiffs were required by New York state regulations to sign certificates stating several things, including one that they were not a member of the Communist Party. The Court determined that these regulations were overbroad in scope and that mere knowing membership in the Communist Party without specific intent to further its unlawful aims was protected by the First Amendment. All in all, public employees do not forego their Constitutional rights simply because they are public employees. This ruling ran contrary to Justice Oliver Wendell Holmes’s 1892 opinion that “There may be a constitutional right to talk politics, but there is not constitutional right to be a policeman,”
(McAuliffe v. New Bedford) and the Supreme Court’s Adler v. Board of Education (1952) ruling that stated “You have a constitutional right to say and think as you will, but you have no constitutional right to work for the government.”

For public educators, the pivotal First Amendment free speech Supreme Court case is Pickering v. Board of Education (1968). Marvin L. Pickering, a teacher in Illinois, was dismissed by the board of education for actions "detrimental to the efficient operation and administration of the schools of the district.” The action in question was a critical letter written to the editor of a local newspaper. In his letter to the editor, Pickering made many statements alleging that taxpayers had been misled by school administrators and officials who were using bond referendum money for purposes that they did not propose to the public when trying to gain support. Specifically, the letter alleged that monies were being spent on athletic programs and facilities, and it also quoted the superintendent as threatening consequences for those who did not support the bond. In an 8-1 decision, the Supreme Court ruled that the school board had violated Pickering’s free speech rights as a taxpayer and a citizen.

In another Supreme Court case, Mt. Healthy v. Doyle (1977), a school district was found to have violated a teacher’s free speech rights. Doyle was a non-tenured teacher in Ohio when the district superintendent recommended to the school board that Doyle not be rehired. When he was not rehired, Doyle sent a letter requesting reasons that he was not rehired. The superintendent responded citing a lack of tact in handling professional matters, contacting a radio station about a memorandum on professional dress code (which the superintendent alleged caused concern in the community as well as neighboring communities), and using obscene gestures to correct a couple of students in the cafeteria. The Supreme Court determined that in particular the call to the radio station was protected by the First Amendment and was a large part of the reason Doyle was not rehired; however, the Supreme Court also stated that the District Court should have gone on to consider whether or not school officials would have reached the decision to not rehire Doyle even in the absence of the aforementioned protected conduct. As a result, the Supreme Court vacated the Court of Appeals ruling and remanded the case for further proceedings consistent with that opinion. By virtue of this decision, protected speech cannot be used adversely against an employee.

Pickering’s and Doyle’s First Amendment rights were protected because the matters were deemed of public concern. In Connick v. Myers (1983), speech that was not of public concern
was deemed unprotected by the First Amendment. In this case, Sheila Myers was an assistant district attorney in New Orleans under the supervision of Harry Connick, the district attorney. When Connick proposed a transfer to Myers, she circulated a questionnaire to other assistant district attorneys in the office concerning the transfer policy, office morale, the need for a grievance committee, the level of confidence in supervisors, and perceived political pressure to participate in campaigns. Myers was subsequently dismissed and then sued on the grounds that her First Amendments rights to free speech had been violated. The Court ruled in a 5-4 vote that this speech was “not a matter of public concern” and was therefore not protected. Circulating this questionnaire could be seen as sufficiently damaging to the internal operation of the district attorney’s office.

In *Rankin v. McPherson* (1987), the Supreme Court again upheld a government employee’s right to free speech on matters of public concern. Working as a deputy constable in Texas, Ardith McPherson was listening to the radio when she heard the news of the assassination attempt on President Reagan. To this, she remarked to another coworker that “if they go for him again, I hope they get him.” Her words were overheard and reported to Constable Rankin, who confronted her about her remarks. When she confirmed them, Rankin terminated her employment. Rankin sued alleging that this violated her First Amendment rights to free speech. The Supreme Court agreed in a 5-4 ruling that this was a violation of her right to free speech. They determined that these remarks were a matter of public concern and that because they were made to a fellow employee, they were unlikely to affect her ability to perform her duties in the constable’s office or erode the public’s faith in the constable’s office to perform its functions.

The Supreme Court recently ruled on another First Amendment case with implications for public employees in 2006. In *Garcetti v. Ceballos* (2006), Richard Ceballos, a Los Angeles District Attorney’s office employee, found that a sheriff misrepresented facts in a search warrant affidavit. Ceballos approached the attorneys prosecuting the case about this, but these attorneys refused to dismiss the case. Upon doing so, Ceballos notified the defense attorneys and ultimately was subpoenaed to testify. Ceballos later alleged that the district attorneys retaliated against him for his cooperation with the defense—speech he said was protected by the free speech clause—and he sued for damages. Ultimately, the Supreme Court ruled that speech by a public official is only protected if it is engaged in as a private citizen, not if it is expressed as a part of the official’s public duties.

In summary, the speech of public employees is subject to a three part test. First, the speech is tested to determine whether or not it is of public concern (*Pickering v. Board of Education*, 1968; *Mt. Healthy v. Doyle*, 1977; *Rankin v. McPherson*, 1987). As a result of these Supreme Court rulings, speech of public concern is protected, while there is no protection for speech deemed not of public concern (*Connick v. Myers*, 1983). The second part of the test determines whether or not the speech was related to official job duties (*Garcetti v. Ceballos*, 2006). Any expressed speech as part of official job duties is not protected. On the other hand, speech expressed outside of official job duties—and provided it is of public concern—is protected. In the event that such a case should occur, the last test determines whether or not adverse consequences are the direct result of a reaction to protected speech (*Mt. Healthy v. Doyle*, 1977). Even though some of the cases mentioned above reach beyond public education, the above rulings still govern public educators. In fact, these rulings have widespread implications for all public employees. With this noted, it is prudent to introduce an emergent technology, which is providing an unprecedented platform for the expression of speech, by looking first at its origin.

**Web 2.0**

The time period from the beginnings of the World Wide Web in 1991 to the mid-2000s has been retroactively named Web 1.0 (serving to identify the Internet technologies utilized prior to the coined term “Web 2.0,” which will be discussed briefly). To be fair, each moniker has its
limitations, but certain generalizations have gained growing acceptance in differentiating the two eras of the Internet. Web 1.0 is characterized by a “one-way” flow of “read-only” information. A prime example of a Web 1.0 technology is a posted personal web page that others could access and read. Others could read the information, but they could not interact with the static content of the web page or its creator.

Web 2.0 is a term that Tim O’Reilly and Dale Dougherty created as a title for an industry conference in October 2004 (O’Reilly, 2005). Since then, the term has become a catchphrase without a clear-cut definition, even from O’Reilly. In fact, he explains: “Web 2.0—Like many important concepts, Web 2.0 doesn't have a hard boundary, but rather, a gravitational core. You can visualize Web 2.0 (see Figure 2) as a set of principles and practices that tie together a veritable solar system of sites that demonstrate some or all of those principles, at a varying distance from that core” (O’Reilly). Even at this date, O’Reilly further acknowledged that some viewed it is a meaningless marketing word and others accepted it as conventional wisdom.
Although O’Reilly is largely credited as a creator of the moniker “Web 2.0,” others have written about its somewhat nebulous meaning. Boutin (2006) writes of the confusion surrounding the term Web 2.0 stating that different groups are using the term in different ways. “For O’Reilly,” Boutin notes, “Web 2.0 is a mishmash of tools and sites that foster collaboration and participation.” He points to the websites Flickr, YouTube, MySpace, and Wikipedia as well as the entire blogosphere as examples. Web developers use the term to describe the software and languages, tools that are easily used and mastered, to build these sites. Next, the term is used as a bid to make money by getting funding for an investment in a bring-your-own-content site. Last, Boutin claims publicists and self-promoters use the term “whenever they want to tag something as new, cool, and undiscovered.”

Elgan (2006) adds that “a universally accepted definition hasn’t yet arisen.” When attempting to answer the question in terms that are accessible to a larger base, he states, “Here’s my plain-vanilla definition: Web 2.0 is all of the web sites out there that get their value from the actions of users.” Much like O’Reilly, Elgan uses examples to define Web 2.0. For example, he
identifies Wikipedia (an online encyclopedia edited by users) and Flickr (a website where anyone can post and view pictures) as a couple of examples of Web 2.0 technology. Pointing to other websites, Elgan notes some quasi-web 2.0 sites such as Amazon.com, which gets an added value when users rate and review products.

At the center of the idea of Web 2.0 is the value of the users. The more people who use the technology, the better it becomes. Perhaps the best indicator of this is Time Magazine’s annual person of the year. In 2006, Time’s person of the year was “you” (Grossman, 2006). Instead of pointing to great achievements of notable people, Time elected to recognize common people and describe the web as “a tool for bringing together the small contributions of millions of people and making them matter.” As contributors to the Web, people are the ones who will make the difference in this technological “revolution.”

Those definitional attempts notwithstanding, the term “Web 2.0” itself has now been basically subsumed under the general heading of “social media.” Web 2.0 was the read-write web, which became the social web, which became social media. This, now, provides the backdrop for how Americans are currently engaging in social media.

**Americans and Social Media**

A solid majority of Americans are spending time online. Hampton, Goulet, Rainie and Purcell (2011) sampled 2,255 adults ages 18 and older from October 20 to November 28, 2010. In this study, they found 79% of American adults say they use the Internet and 47% of all adults (59% of Internet users) use at least one social networking service (SNS). SNS users are disproportionately female (56%) and make up the majority of those who use a photo sharing service (58%), use instant messaging (55%), blog (54%), and email (52%). Since 2008, the number of those using social networking services has nearly doubled and the average age of adult users has increased from 33 to 38. In this survey, Facebook had a solid majority of users with 92%, compared to 29% for MySpace, 18% for LinkedIn, and 13% for Twitter. The frequency with which people access a particular SNS, according to Hampton et al., can be seen in Table 1.
Table 1

Frequency of Use for Users of Different Social Networking Platforms

Frequency of use for users of different social networking site platforms
% of users on the following social networking sites who use that site with the following frequency. For instance, 3% of MySpace users use the site several times a day.

<table>
<thead>
<tr>
<th></th>
<th>MySpace</th>
<th>Facebook</th>
<th>LinkedIn</th>
<th>Twitter</th>
<th>Other SNS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Several times a day</td>
<td>3%</td>
<td>31%</td>
<td>3%</td>
<td>20%</td>
<td>15%</td>
</tr>
<tr>
<td>About once a day</td>
<td>5%</td>
<td>21%</td>
<td>3%</td>
<td>13%</td>
<td>17%</td>
</tr>
<tr>
<td>3-5 days a week</td>
<td>2%</td>
<td>15%</td>
<td>4%</td>
<td>6%</td>
<td>14%</td>
</tr>
<tr>
<td>1-2 days a week</td>
<td>17%</td>
<td>17%</td>
<td>18%</td>
<td>9%</td>
<td>16%</td>
</tr>
<tr>
<td>Every few weeks</td>
<td>12%</td>
<td>11%</td>
<td>28%</td>
<td>12%</td>
<td>19%</td>
</tr>
<tr>
<td>Less often</td>
<td>33%</td>
<td>5%</td>
<td>35%</td>
<td>23%</td>
<td>14%</td>
</tr>
<tr>
<td>Never</td>
<td>29%</td>
<td>1%</td>
<td>9%</td>
<td>18%</td>
<td>5%</td>
</tr>
</tbody>
</table>

Source: Pew Research Center’s Internet & American Life Social Network Site survey conducted on landline and cell phone between October 20-November 28, 2010. N for full sample is 2,255 and margin of error is +/- 2.3 percentage points. N for social network site and Twitter users is 975 and margin of error is +/- 3.5 percentage points.

There is a discrepancy in the usage for the social networking services listed above. Facebook (52%) and Twitter (33%) users are more likely to engaged with the platform daily whereas there are significantly fewer doing so for MySpace and LinkedIn (8% and 6% respectively) (Hampton et al., 2011). In regards to usage, the researchers took a closer look at the largest of the SNS platforms. For a typical day, an observer might note the following on Facebook: 15% of users updating their status, 22% commenting or posting on another’s status, 20% commenting on another user’s photos, 26% liking another user’s content, and 10% sending another user a private message.

Hampton et al. (2011) also noted that Internet users are much more politically engaged than most people. They are almost two and a half times more likely to have attended a political rally or meeting (2.39 times), 78% more likely to have attempted to influence someone’s vote, and 53% more likely to have reported voting or being likely to vote than non-Internet users. Compared to other Internet users, Facebook users who visited the site multiple times a day were two and a half times more likely to have attended a political rally or meeting, 57% more likely to have attempted to influence someone’s vote, and 43% more likely to have reported voting or being likely to vote. When compared to non-Internet users, those who accessed Facebook
several times a day are 5.89 times more likely to have attended a political rally or meeting, 2.79 times more likely to have attempted to influence someone’s vote, and 2.19 times more likely to have reported voting or being likely to vote.

Other research, which is slightly more dated, adds detail to social networking activity. Rainie (2010) notes many descriptive statistics. First, 75% of adults are online with 62% having broadband access at home. Four-fifths, or 80%, have a cell phone. All told, 53% of adults connect to the Internet wirelessly. Of the adults online, 57% of them use social networking sites, compared to 73% of online teens who use them. Smith (2010) notes similar, but slightly higher numbers. He notes that 77-79% of adults were going on-line and 63% had broadband access in 2009. In addition, his numbers indicate 85% of adults owned a cell phone and 54-56% connected to the Internet wirelessly. According to Lenhart (2010), the numbers of people online in 2009 were well over two-thirds for all above the age of twelve except for the 65 and over population, which was 38%. For 12-17 year-olds and 18-29 year-olds, 93% were online in 2009. Of adults 30-49 years of age, 81% were online, and adults from 50-64 were online at a rate of 70%.

Additionally, teens as well as adults are not simply just going online as a non-participatory viewer. Many are uploading or actively engaging in various ways. Rainie (2010) states that 50% of adults post pictures online, compared to 70% of teens. Slightly over one-fourth, or 26% of adults post comments online, and 19% of adults use Twitter or other status update methods (this is only 8% for teens). Slightly more teens (14%) keep blogs than adults (11%), but over 40% of Internet users read blogs. Rainie notes that of 84% of online adults in groups with online presence, about 50% of them belong to listservs or receive regular group emails, and about 40% get email or text alerts. Additionally, forty percent of online adults get RSS feeds. Finally, 31% of adult online users contribute to the information on the World Wide Web by rating persons, products, or services.

Internet users are contributing in creative ways as well. According to Smith (2010), 30% of users shared something—such as artwork, photos, stories, or videos—created by that individual. Half as many, 15%, took material online—like songs, texts, or images—and remixed them into their own artistic creation. Over one fourth of users, 26%, posted comments to an online news group, website, blog, or photo site. This Pew Research also identifies a substantial number of users who create or work on webpages or blogs for others (15%), create or work on
their own web page (14%), and create or work on their own online journal or blog (11%). All told, 51% of Internet users are posting content they have created themselves, which is 39% of all adults, including those who do not use the Internet. In 2009 on a given day, 15% of Internet users posted something online for others to see.

Many adults are also using the Internet for social networking purposes. According to Madden (2010), in 2010 61% of all adults were using social networking sites. The percentage of users decreases as age increases: 86% of 18-29 year-olds, 61% of 30-49 year-olds, 47% of 50-64 year-olds, and 26% of those 65 years of age or older. In regards to teens, 73% were using social networking sites in 2009 (Lenhart et al., 2010). The trend is similar for Twitter/status updates: 27% of 18-20 year-olds, 16% of 30-49 year-olds, 11% of 50-64 year-olds, and 5% for those 65 years of age or older (Madden). All told, that amounts to 17% of all adults using Twitter/status updates. Unlike other trends, teens ages 12-17 were not using Twitter as much or more than others (Lenhart et al., 2010). In all, only 8% were using Twitter. Broken down, it was 10% of 14-17 year-olds compared to only 5% of 12-13 year-olds.

In general, Americans lives have become increasingly involved with social media. American educators are not very different. To provide insight, there is one major study on the behavior of K-12 educators and one smaller study of high school teachers.

**K-12 Educators’ Online Behavior**

Three sponsors—edWeb.net, MCH Inc., and MMS Education—cooperated to make possible a study of K-12 educators and some online use. This study, *A Survey of K-12 Educators on Social Networking and Content Sharing Tools* (2009), was the first of its magnitude to study the online behavior of educators in particular. MMS Education randomly selected 82,900 educators from emails provided by MCH and deployed a blind online survey. In sum, 1,284 (1.55%) of those emailed responded. Broken down, 601 teachers, 381 principals, and 262 librarians completed the survey.

The responses came from 48 states plus the District of Columbia. They represented multiple grade levels (elementary 46%, middle school 30%, high school 34%), various age ranges (18-34 years 14%, 35-54 years 57%, 55+ years 30%), differing years in education (2-10 years 23%, 11-20 years 36%, 21+ years 42%), and separate location types (rural 14%, suburban
52%, urban 29%, unknown 9%). Of note, 75% of the respondents were female and 25% were male.

The survey looked at three primary topics: 1) educators and their use of and attitudes about social networking, 2) educators and their use of a variety of content-sharing sites/tools, and 3) educators’ engagement in online activities that are popular with students. Of the educators surveyed, 61% belonged to at least one social networking site. For 85% of those, they had joined Facebook; however, 76% of those stated that their usage was “seldom or never.” Overall, educators saw a high value for social networking in education for a wide range of applications, but educators who had joined a social networking site were more positive about the value of this technology in education.

From the responses, the survey revealed that 63% of females and 55% of males had joined a social networking site. The 18-34 year-olds led (78%), followed by the 35-54 year-olds (65%), and the 55+ category trailed (47%). Elementary and middle school/junior high school respondents almost mirrored each other, 63% and 64% respectively. High school was slightly behind at 58%. The rural and urban districts were close at 56% and 57% respectively, while the suburban district and those categorized as “Don’t Know” were both 64%.

The study found significant differences among librarians, teachers, and administrators. Librarians were most likely to join a social networking site (70%) but also expressed frustration with the blocking of websites by school districts. Teachers were next in their likelihood to join (62%), but they had reservations about time commitments and privacy concerns for this technology. Last, over half of the principals surveyed (54%) were likely to join a social network. They had some reservations with the technology and felt behind, but they accepted that this is the future.

The study looked at the ways educators are using online technologies. Beginning with Figure 3, the survey identified the frequencies that educators perform various online activities.
Figure 3

Educators and Online Behavior

Educators Who Engage in Online Activities on a Weekly Basis

- Use online search engines: 89%
- Search for educational products and services: 63%
- Send text messages: 59%
- Upload digital photos to a computer: 56%
- Watch videos online: 38%
- Download music: 28%
- Read blogs: 26%
- Take videos using any type of device: 24%
- Use an online photo service: 22%
- Maintian/ update a personal website: 21%
- Download podcasts: 14%
- Play video games online: 14%
- Upload/ share videos online: 13%
- Maintain/ update a personal blog: 10%
- Visit a virtual world: 8%
Figure 4 disaggregates usage for the eight most popular activities.

**Educators’ Online Activities**

![Bar chart showing the top eight online activities for educators, with specific percentages for teachers, librarians, principals, and administrators.](image-url)
Figure 5 identifies the reasons educators use social networking sites and distinguishes between general and professional/educational use.

Figure 5

*Educators and Social Networking*

<table>
<thead>
<tr>
<th>Purpose</th>
<th>General</th>
<th>Professional/Educational</th>
</tr>
</thead>
<tbody>
<tr>
<td>To connect with friends</td>
<td></td>
<td>85%</td>
</tr>
<tr>
<td>To connect with family members</td>
<td>12%</td>
<td>72%</td>
</tr>
<tr>
<td>To connect with professional peers and colleagues</td>
<td>47%</td>
<td>15%</td>
</tr>
<tr>
<td>To stay current with the latest Web 2.0 technology</td>
<td>18%</td>
<td>15%</td>
</tr>
<tr>
<td>To make connections for job and career opportunities</td>
<td>5%</td>
<td>8%</td>
</tr>
<tr>
<td>To generate or try to generate income</td>
<td>1%</td>
<td>2%</td>
</tr>
</tbody>
</table>
Lastly, Figure 6 breaks down educators’ use of content sharing tools/ websites for personal, classroom, and professional use.

Figure 6

Educators’ Use of Content-sharing Tools/ Websites
This edWeb.net, MCH Inc., and MMS Education (2009) study gives a point of comparison between Americans in general and K-12 educators. Another study (Dautrich, 2011) gives percentages for the responses of 900 high school teachers and various activities. Table 2 displays a specific breakdown to question number 2 on the teacher survey from the most recent Future of the First Amendment study. It is noteworthy to consider that the Future of the First Amendment studies have a bent toward journalism and high school students, particularly in regards to instruction.

Table 2

*Future of the First Amendment High School Teacher Technology Responses*

2. How often, if at all, do you do each of the following:

a. Get news and information from online or Internet sources in general?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every day</td>
<td>61%</td>
</tr>
<tr>
<td>Several times a week</td>
<td>27%</td>
</tr>
<tr>
<td>About once a week</td>
<td>7%</td>
</tr>
<tr>
<td>Less than once a week</td>
<td>5%</td>
</tr>
<tr>
<td>Never</td>
<td>0%</td>
</tr>
</tbody>
</table>

b. Get news and information from mobile devices such as a cell phone, Blackberry or iPhone?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every day</td>
<td>24%</td>
</tr>
<tr>
<td>Several times a week</td>
<td>11%</td>
</tr>
<tr>
<td>About once a week</td>
<td>5%</td>
</tr>
<tr>
<td>Less than once a week</td>
<td>8%</td>
</tr>
<tr>
<td>Never</td>
<td>52%</td>
</tr>
</tbody>
</table>

c. Watch videos on websites such as YouTube or Google Video?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every day</td>
<td>10%</td>
</tr>
<tr>
<td>Several times a week</td>
<td>24%</td>
</tr>
<tr>
<td>About once a week</td>
<td>23%</td>
</tr>
<tr>
<td>Less than once a week</td>
<td>32%</td>
</tr>
<tr>
<td>Never</td>
<td>11%</td>
</tr>
</tbody>
</table>
d. Use online social networking (such as Facebook, Twitter and Tumblr) to get news and information?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every day</td>
<td>23%</td>
</tr>
<tr>
<td>Several times a week</td>
<td>12%</td>
</tr>
<tr>
<td>About once a week</td>
<td>8%</td>
</tr>
<tr>
<td>Less than once a week</td>
<td>12%</td>
</tr>
<tr>
<td>Never</td>
<td>45%</td>
</tr>
</tbody>
</table>

e. Text message or go online to instant message?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every day</td>
<td>24%</td>
</tr>
<tr>
<td>Several times a week</td>
<td>11%</td>
</tr>
<tr>
<td>About once a week</td>
<td>5%</td>
</tr>
<tr>
<td>Less than once a week</td>
<td>12%</td>
</tr>
<tr>
<td>Never</td>
<td>48%</td>
</tr>
</tbody>
</table>

f. Go online to participate in online discussions or chat groups?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every day</td>
<td>3%</td>
</tr>
<tr>
<td>Several times a week</td>
<td>4%</td>
</tr>
<tr>
<td>About once a week</td>
<td>5%</td>
</tr>
<tr>
<td>Less than once a week</td>
<td>21%</td>
</tr>
<tr>
<td>Never</td>
<td>67%</td>
</tr>
</tbody>
</table>

g. Post messages or opinions to online columns or blogs that may be read by the general public?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every day</td>
<td>2%</td>
</tr>
<tr>
<td>Several times a week</td>
<td>3%</td>
</tr>
<tr>
<td>About once a week</td>
<td>5%</td>
</tr>
<tr>
<td>Less than once a week</td>
<td>18%</td>
</tr>
<tr>
<td>Never</td>
<td>72%</td>
</tr>
</tbody>
</table>
h. Try to find new friends online through social networks?

<table>
<thead>
<tr>
<th>Frequency</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Every day</td>
<td>1%</td>
</tr>
<tr>
<td>Several times a week</td>
<td>2%</td>
</tr>
<tr>
<td>About once a week</td>
<td>4%</td>
</tr>
<tr>
<td>Less than once a week</td>
<td>19%</td>
</tr>
<tr>
<td>Never</td>
<td>74%</td>
</tr>
</tbody>
</table>

In general, these studies help shape the understanding of K-12 educator behavior. The edWeb.net, MCH Inc., and MMS Education (2009) study provides greater detail while the Future of the First Amendment study (Dautrich, 2011) adds a dimension not previously explored. Even though both studies provide information to give depth to this research, neither of these consider the legality of K-12 educator online behavior or even K-12 educator legal knowledge. Even though not considered here, other work has concerned itself with educators and legal literacy.

**K-12 Educators and Legal Literacy**

Legal literacy for teachers and administrators has on the whole been found to be less than acceptable (Schimmel & Militello, 2007; Militello, Schimmel & Eberwein, 2009). In a 2008 unpublished dissertation, Eberwein (2008) reviewed 77 studies of educators’ legal literacy, and a vast majority of these were single-state studies conducted as doctoral dissertations. Principals’ knowledge of the law was acceptable in only one study (Shaw, 1993) and unacceptable in the rest (Brabrand, 2003; Caldwell, 1986; Kalafatis, 1999). The inadequacy of teachers’ law knowledge is also documented in many studies (Ogletree & Lewis, 1986; Koch, 1997; Schimmel & Militello, 2007). Of the published studies, three provide information about K-12 educators with specific regards to first amendment rights.

Ogletree and Lewis (1986) published a study to determine the extent educators knew the law. Their 100 question study consisted of 50 administrators and 150 teachers (n = 200). Some of the questions were particular to Illinois statutes, but many were focused on federal and state case law in regards to student rights, teacher rights, tort liability, church-state relations, and civil
rights. Degrees held, years of experience, position, and school law class enrollment were analyzed to determine statistically significant responses.

The survey analysis revealed that educators had moderate to poor understanding of school law. In general, the two groups who tended to perform better were those who had taken a school law course and administrators. In terms of the overall responses, only 20 of the 100 questions were answered correctly by over 70 percent of the respondents. In their conclusion, Olgetree and Lewis (1986) noted that the sample was unsure about a number of teachers’ rights directly affecting themselves, particularly dress codes, rights to collective bargaining, teaching controversial issues, procedural rights in employment, and supervision of students.

Among other legal issues, Olgetree and Lewis (1986) studied the First Amendment right to the freedom of expression. More specifically, they considered the freedom to participate in curriculum choices, freedom to state opinions, and freedom of association. The teachers in this survey generally had little awareness of their rights in this area.

The first item of teacher expression Ogletree and Lewis (1986) considered was teacher appearance. Fifty percent of those who had taken a school law course and 65% of teachers with five or less years of experience knew that the school board could impose reasonable regulations for teacher dress. Academic freedom was a second area studied. The authors noted that only 56% of administrators and 50% of those who took a school law course knew about the right to teach controversial subjects that are related to course content. Sixty-eight percent of the sample (and 81% of those with less than five years of experience) knew that teachers have no constitutional protection for refusing to follow the school curriculum.

Other areas of free speech studied moved beyond the walls of the classroom. Teachers have the right to criticize their superiors, both openly and privately, on issues of public concern. Only 56% of the Ogletree and Lewis (1986) sample knew that this speech was protected, and those with a school law class had the highest scores. The researchers also asked about the right to affiliate with a particular group, party, or political candidate. Only 44% knew that educators have this right. Administrators had the highest score with 69% and half of those who had a school law course answered correctly. Lastly, Olgetree and Lewis studied both negative and affirmative loyalty oaths. Fifty-eight percent of those who had taken a school law course and 56% of those with six to ten years of experience knew that negative oaths prohibiting subversive acts are unconstitutional. In terms of affirmative oaths, 62% of the sample knew they were
constitutional. A school law course raised correct responses by 23%, and those with a master’s degree had the highest number of correct responses.

In 2007, Schimmel and Militello published their study on the legal literacy of teachers. In this study, teams from Harvard University and the University of Massachusetts at Amherst purposefully sampled from principals that were interested in and willing to administer the survey to their teachers. The surveys were administered between June 2005 and March 2006. They had 1,317 respondents from seventeen states.

The survey itself consisted of five sections, the first of which contained demographic information. In the second section, teachers reported their level of interest and their level of knowledge of the law in ten law domains: search and seizure, student freedom of expression, issues of religion and education, liability regarding student injuries, contract issues/ employee rights, special education and limited English proficiency, teachers’ academic freedom, student due process and discipline, discrimination and harassment, and abuse and neglect. The third section was made up of 29 true/ false/ unsure questions, 12 of which were about student rights while the remaining 17 focused on teacher rights and liability. Section four asked teachers for their sources of legal information, and the last section asked two open ended questions about whether teachers would change their behaviors based on knowledge of the laws they were questioned about and whether or not they had any comments or suggestions about school law to share.

Schimmel and Militello (2007) found that over 75% of the teachers surveyed had not taken any courses in school law and over half of the respondents are uninformed or misinformed about teacher and student rights. The mean for correct answers to students’ rights questions was about 41% and the mean for the answers to the teachers’ rights and liabilities questions was about 39%.

There are four categories in this study that have First Amendment implications. The teachers were asked to rate their level of legal knowledge among four choices: none, inadequate, adequate, and proficient. Findings of the study indicated that 59% of the teachers surveyed believed their level of knowledge concerning teachers’ academic freedom was none or inadequate. Fifty percent of teachers indicated the same level of knowledge about contract issues/ employment rights, and 48% percent also felt that level in regards to student freedom of
expression. In contrast, 60% of those surveyed felt as though they had adequate or proficient knowledge in terms of religion and education.

In terms of actual knowledge, the teachers did not perform well with the true/ false/unsure section. More than 60% of respondents were wrong or unsure about seven of the twelve questions on students’ rights. Regarding teachers’ rights/responsibilities, over 50% of respondents were wrong or unsure about 11 of the 17 questions. In the study, only two questions were answered correctly by more than 67% of the teachers: (1) 93% correctly answered that they could be held liable for failure to report sexual, physical, or verbal abuse, and (2) 78% correctly answered that they could be fired for having a consensual sexual relationship with a student who is over the age of eighteen.

In their research, Schimmel and Militello (2007) found a couple of correlations among their variables. First, the self-reported knowledge had a positive correlation to knowledge scores. Additionally, level of legal training also produced a positive correlation with knowledge scores. For those who had legal training, the teachers who took a law course while teaching scored higher than those who had taken a law course during certification.

In addition to these findings, the authors found a few other noteworthy results. For example, both high school and middle school teachers scored significantly higher on the knowledge questions than did the elementary school teachers, but there was not a significant difference between the high school and middle school teachers. In addition, limited English proficiency (LEP) teachers and special education teachers scored significantly lower than regular education teachers. Also, teachers with master’s, master’s + 30 credits, and doctoral degrees scored significantly higher than those with bachelor’s degrees. Lastly, males scored significantly higher on the knowledge questions than females. There were two instances where no significance was found: teaching experience and location (rural, suburban, or urban districts).

Militello, Schimmel, and Eberwein (2009) studied secondary school principals’ knowledge of the rights of students and teachers. For this study, the National Association of Secondary School Principals (NASSP) granted access to a random sample of 8,000 of its members for the completion of the Principals’ Education Law Survey that had been developed for this study. A total of 493 principals completed the survey and every state except Vermont was represented. For the purposes of this study, the authors considered a correct response rate of 70% or greater an acceptable level of knowledge of the law.
With this rate in mind, there were several areas related to First Amendment legal issues that secondary school principals had a knowledgeable understanding of the law. In the study, 91% of surveyed principals knew that principals have the right to approve, in advance, supplemental material without violating teachers’ academic freedom. Additionally, 81% correctly answered that academic freedom generally protects teachers who discuss controversial subjects if they are relevant, appropriate for the age and maturity of the students, and do not cause a disruption. Finally, 71% knew that teachers do not have the legal authority over the texts they select for their students.

On the other hand, Militello, Schimmel and Eberwein (2009) found that the principals surveyed had inadequate knowledge in other regards to First Amendment rights. They found that only 58% of principals surveyed knew that teachers do not have the right to explain their political or religious views or sexual orientation outside of class in response to student questions in class under the auspices of academic freedom. Even less (54%) knew that teachers could not be punished for publicly criticizing school policies of community concern. Lastly, only 52% of those surveyed knew that schools can impose rigid dress codes on teachers without violating their rights.

In sum, K-12 educators have a very poor legal literacy. While concerns are noted in the aforementioned studies of the implications for such a poor legal literacy, they do not consider K-12 educator online behavior in particular. Furthermore, even though the studies ask questions about First Amendment rights, none of them ask questions that might help identify K-12 educator dispositions toward the First Amendment. The Future of the First Amendment study (Dautrich, 2011), on the other hand, does.

**High School Teachers and the First Amendment**

In the spring of 2011, the Knight Foundation sponsored the fourth installment of the Future of the First Amendment study, and 900 high school teachers completed the teacher survey (Dautrich, 2011). In each of the four surveys, teachers were asked a couple of questions about the First Amendment in particular. Table 3 documents responses to questions 13 and 14 of the survey, which ask if the First Amendment goes too far and if they as individuals consider their guaranteed rights or take them for granted.
Table 3

*Feelings and Thoughts About First Amendment Freedoms and Rights*

13. The First Amendment became part of the U.S. Constitution more than 200 years ago. Here is what it says: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Based on your own feelings about the First Amendment, how do you feel about the following statement: The First Amendment goes too far in the rights it guarantees.

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2006</th>
<th>2007</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>9%</td>
<td>12%</td>
<td>8%</td>
<td>6%</td>
</tr>
<tr>
<td>Mildly agree</td>
<td>20%</td>
<td>21%</td>
<td>20%</td>
<td>19%</td>
</tr>
<tr>
<td>Mildly disagree</td>
<td>16%</td>
<td>12%</td>
<td>20%</td>
<td>18%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>50%</td>
<td>50%</td>
<td>43%</td>
<td>49%</td>
</tr>
<tr>
<td>Don't know</td>
<td>5%</td>
<td>5%</td>
<td>8%</td>
<td>9%</td>
</tr>
</tbody>
</table>

14. Are the rights guaranteed by the First Amendment something you personally think about or are they something you take for granted?

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2006</th>
<th>2007</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personally think about</td>
<td>50%</td>
<td>49%</td>
<td>49%</td>
<td>53%</td>
</tr>
<tr>
<td>Take for granted</td>
<td>46%</td>
<td>47%</td>
<td>47%</td>
<td>42%</td>
</tr>
<tr>
<td>Don't know</td>
<td>4%</td>
<td>4%</td>
<td>5%</td>
<td>5%</td>
</tr>
</tbody>
</table>

In the four surveys, between one-fourth (2011) and one-third (2006) of teachers have mildly agreed or strongly agreed that the First Amendment goes too far compared to the almost two-thirds of teachers who have mildly disagreed or strongly disagreed. When it comes to thinking about personally thinking about the rights guaranteed by the First Amendment, teachers are relatively evenly split with slight more personally thinking about these freedoms. However, the greatest difference is 11% and comes from the 2011 survey.

Following the above survey questions, teachers were also asked eight questions (three are for the first time in 2011) about items related to the freedom of expression. Of note, at least 94% of teachers in each of the four years of the survey mildly agreed or strongly agreed that people should be able to express unpopular opinions. Additionally, over three-fourths of teachers in each survey mildly agreed or strongly agreed that newspapers should be able to publish freely without government approval of a story and 70% (2011 only) mildly agreed or strongly agreed
that online websites should be able to publish without government approval of a story. In 2011 (the highest percentage of the four surveys), 65% of teachers mildly agreed or strongly agreed that musicians should be able to sing lyrics that others might find offensive. In spite of a tendency to agree with the preceding forms of expression being acceptable, over two-thirds of teachers in each survey mildly disagreed or strongly disagreed with the idea of allowing people to burn or deface the American flag as a means of expression, and at least 58% of those who disagreed in each survey strongly disagreed. A breakdown of the responses to each of these and a few other questions can be seen in Table 4.

Table 4

*Feelings About First Amendment Expression Scenarios*

15. For each of the following statements, please indicate how much you agree or disagree:

a. People should be allowed to express unpopular opinions.

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2006</th>
<th>2007</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>72%</td>
<td>75%</td>
<td>62%</td>
<td>65%</td>
</tr>
<tr>
<td>Mildly agree</td>
<td>25%</td>
<td>21%</td>
<td>32%</td>
<td>30%</td>
</tr>
<tr>
<td>Mildly disagree</td>
<td>2%</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>1%</td>
<td>1%</td>
<td>2%</td>
<td>1%</td>
</tr>
<tr>
<td>Don't know</td>
<td>1%</td>
<td>0%</td>
<td>2%</td>
<td>2%</td>
</tr>
</tbody>
</table>

b. Students should be allowed to express their opinions about teachers and school administrators on Facebook without worrying about being punished by teachers or school administrators for what they say.

<table>
<thead>
<tr>
<th></th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>12%</td>
</tr>
<tr>
<td>Mildly agree</td>
<td>24%</td>
</tr>
<tr>
<td>Mildly disagree</td>
<td>23%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>38%</td>
</tr>
<tr>
<td>Don't know</td>
<td>4%</td>
</tr>
</tbody>
</table>
c. People should be allowed to post their own videos/photographs on the Internet without anyone’s permission, including those who are in the videos/pictures.

<table>
<thead>
<tr>
<th></th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>4%</td>
</tr>
<tr>
<td>Mildly agree</td>
<td>8%</td>
</tr>
<tr>
<td>Mildly disagree</td>
<td>22%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>64%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>2%</td>
</tr>
</tbody>
</table>

d. Musicians should be allowed to sing songs with lyrics that others might find offensive.

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2006</th>
<th>2007</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>28%</td>
<td>35%</td>
<td>25%</td>
<td>32%</td>
</tr>
<tr>
<td>Mildly agree</td>
<td>30%</td>
<td>29%</td>
<td>30%</td>
<td>33%</td>
</tr>
<tr>
<td>Mildly disagree</td>
<td>19%</td>
<td>19%</td>
<td>21%</td>
<td>17%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>21%</td>
<td>15%</td>
<td>22%</td>
<td>16%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>2%</td>
<td>2%</td>
<td>3%</td>
<td>2%</td>
</tr>
</tbody>
</table>

e. People should be allowed to burn or deface the American flag as a political statement.

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2006</th>
<th>2007</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>15%</td>
<td>16%</td>
<td>12%</td>
<td>16%</td>
</tr>
<tr>
<td>Mildly agree</td>
<td>13%</td>
<td>13%</td>
<td>12%</td>
<td>13%</td>
</tr>
<tr>
<td>Mildly disagree</td>
<td>11%</td>
<td>11%</td>
<td>11%</td>
<td>11%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>59%</td>
<td>58%</td>
<td>61%</td>
<td>58%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>2%</td>
<td>2%</td>
<td>3%</td>
<td>3%</td>
</tr>
</tbody>
</table>

f. Newspapers should be allowed to publish freely without government approval of a story.

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2006</th>
<th>2007</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>53%</td>
<td>57%</td>
<td>49%</td>
<td>52%</td>
</tr>
<tr>
<td>Mildly agree</td>
<td>27%</td>
<td>22%</td>
<td>28%</td>
<td>26%</td>
</tr>
<tr>
<td>Mildly disagree</td>
<td>12%</td>
<td>13%</td>
<td>15%</td>
<td>11%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>6%</td>
<td>7%</td>
<td>5%</td>
<td>8%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>2%</td>
<td>1%</td>
<td>3%</td>
<td>3%</td>
</tr>
</tbody>
</table>
g. Online websites should be allowed to publish freely without government approval of the content.

<table>
<thead>
<tr>
<th></th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>40%</td>
</tr>
<tr>
<td>Mildly agree</td>
<td>30%</td>
</tr>
<tr>
<td>Mildly disagree</td>
<td>16%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>10%</td>
</tr>
<tr>
<td>Don't know</td>
<td>4%</td>
</tr>
</tbody>
</table>

h. High school students should be allowed to report controversial issues in their student newspaper without the approval of school authorities.

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2006</th>
<th>2007</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>13%</td>
<td>13%</td>
<td>12%</td>
<td>11%</td>
</tr>
<tr>
<td>Mildly agree</td>
<td>26%</td>
<td>27%</td>
<td>23%</td>
<td>24%</td>
</tr>
<tr>
<td>Mildly disagree</td>
<td>27%</td>
<td>28%</td>
<td>24%</td>
<td>29%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>33%</td>
<td>31%</td>
<td>38%</td>
<td>33%</td>
</tr>
<tr>
<td>Don't know</td>
<td>1%</td>
<td>1%</td>
<td>3%</td>
<td>2%</td>
</tr>
</tbody>
</table>

One question in particular (15b) in the survey asks about freedom of expression and social media (students should be allowed to express their opinions about teachers and school administrators on Facebook without worrying about being punished by teachers or school administrators for what they say), but it is very specific and outside of the scope of this study. Even at this, this question combined with the others provides some insight (however limited) into educators’ feelings about the freedom of expression and the First Amendment. Of course, one should not lose sight that K-8 educators are not represented in this study.

**Summary**

Today, people make the web what it is. Certainly, the technology is an important component, but the more people there are actively engaged in social media, the “better” it becomes. Contributors might feel as though they have free reign to post as they please because of the ease of access, but this simply isn’t the case. With three-fourths of American adults online, opportunity is rampant for the chance to freely express oneself. Educators are not an exception.
As agents of the state, K-12 public educators live under a tenuous balance of state interests and their own free speech rights. When speaking on matters of public concern, K-12 public educators have been protected by their free speech rights; however, when acting under the auspices of their official duties, these educators are not protected by free speech rights in the wake of the *Garcetti* (2006) ruling. Unfortunately, many educators lack the appropriate level of legal knowledge to make informed decisions in regards to education law. The possibility of this combination paints a troublesome picture for educators wishing to exercise their First Amendment rights to free speech.

In closing, K-12 educators play a vital role in the American democracy. As experts in their field, they are a critical component of protecting the public’s interest in education. As such, their input to this area of public concern is of vital importance; however, we currently have little knowledge about if and how this is happening. Additionally, lack of understanding of legal issues around speech and expression could both cause educators to engage in social media in ways that are inappropriate, but could also hinder valuable expression of ideas. To best protect the interests of an enlightened and free society, these issues must be researched, studied, and addressed.
CHAPTER 3

Methodology

There are a few published studies measuring K-12 educator knowledge of the law as well as a couple of studies to describe how K-12 educators are using social media, but none of them specifically consider First Amendment rights as they pertain to K-12 educators who are utilizing social media to utilize their First Amendment rights to free speech. Therefore, this research was designed to assist in bridging the gap by addressing the following questions:

1. How and to what extent are K-12 educators utilizing social media?
2. What do K-12 educators know about First Amendment law as it relates to free speech and educational issues or concerns?
3. What are the free speech dispositions of K-12 educators?
4. How are educators’ knowledge of and dispositions toward the First Amendment related to their use of social media?
5. What demographic or contextual factors mediate those relationships?

This study employed a survey research design that collected descriptive data and provided data for correlational analyses and a regression analysis. Participants completed an Internet-based survey to supply the data. The survey was hosted by the on-line survey provider SurveyMonkey.

According to McMillan and Schumacher (2006), surveys provide credible information from a large population where small samples can be selected from larger populations in ways that permit generalizations to the population. Furthermore, surveys might be the only means to gather a representative description of traits, beliefs, attitudes, and other characteristics of the population.

Surveys have several advantages. First, because participants are anonymous, there is less social desirability bias (Gosling, Vazire, Srivasta, & John, 2004; Lin, 2004). Additionally, the researcher exerts less control over participants and thus reduces ethical problems due to the researcher influencing participants to continue the study (Nosek, Banaji, & Greenwald, 2002). Also, it will be possible to survey anyone with a computer and Internet access, which eliminates geography as a boundary and makes large samples possible (Gosling et al., 2004) and allows the researcher to target groups that have special interests or characteristics by targeting members of online discussion groups (Nosek et al., 2002).
Finally, the Internet platform does not compromise the integrity of the survey. For starters, Internet surveys get about the same results as paper-pencil surveys (Gosling et al., 2004). Next, the reliability of a measure when administered over the Internet is equivalent to its reliability when administered by pencil and paper (Gosling et al., 2004; Miller et al., 2002). Last, web samples are often a more representative sample than lab surveys (Gosling et al., 2004).

**Population and Sampling**

For this study, the researcher began with a targeted sample of K-12 educators who were known users of social media. As Gosling et al. (2004) indicate, using an Internet survey affords the researcher an opportunity to reach a large sample size despite geographical differences. This allowed the researcher to reach a sizeable population of K-12 educators who share this characteristic.

In particular, this study sought to learn about those K-12 educators who were actively engaged in social media with an interest in educational issues. Namely, this research was not out to answer questions about K-12 educators who have faced or might face repercussions from social media activities of a personal nature, per se. Rather, this research was interested in answering questions about K-12 educators who were actively using social media and discussing education as a First Amendment free speech right. By choosing this population, the researcher learned about the K-12 educators who were engaged in the debates of education.

As a point for comparison, this study also sought to include K-12 educators who might not have been as engaged in the use of social media. In order to include these subjects, the default screen at the end of the survey invited survey participants to voluntarily pass the survey link along to colleagues they believed might be both willing to participate in the survey and did not heavily engage in the use of social media. This link directed the invited friends and colleagues to a different web address, but the web address contained the same survey as the original. This, combined with question number 41 of the survey (see Appendix A), helped distinguish between the two segments of the survey population.

The goal for this study was to receive 400 responses from throughout the nation. If 384 responses were collected, the results would have been generalizable to a population size of 1,000,000 people with a desired accuracy within 5% at the 95% confidence level (Mitchell &
To get participants to respond to the survey, the faculty advisor solicited responses through postings on Twitter and by posting a link in a blog post. Because the faculty advisor had used both Twitter and his blog to discuss educational issues on a regular basis, subscribers and followers were ipso facto likely to have the characteristics of the targeted population. In all, 553 people agreed to participate in the study, but not all of those who began the survey completed it; however, in all instances, the size of the sample allowed for reasonable generalizations.

**Definition of Variables**

The selection of independent variables used in this study was based on similar independent variables used in other studies. The list can be found in Table 5.

**Table 5**

*Descriptions of Independent Variables in the Investigation*

<table>
<thead>
<tr>
<th>Name of Variable</th>
<th>Type of Variable</th>
<th>Categories</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender</td>
<td>Dichotomous</td>
<td>Male, Female</td>
</tr>
<tr>
<td>Title</td>
<td>Categorical</td>
<td>Teacher, Administrator, Both</td>
</tr>
<tr>
<td>Age</td>
<td>Categorical</td>
<td>29 or younger, 30-39, 40-49, 50-59, 60 or older</td>
</tr>
<tr>
<td>Race</td>
<td>Categorical</td>
<td>American Indian or Alaska Native, Asian, Black or African American, Hispanic, Native Hawaiian or Other Pacific Islander, White (Non-Hispanic)</td>
</tr>
<tr>
<td>School Law</td>
<td>Categorical</td>
<td>None, One college course, In-service training only, One college course and in-service training, two college courses, three or more</td>
</tr>
</tbody>
</table>
Additionally, the study used 18 dependent variables for analysis (Table 6).

Table 6

*Descriptions of Dependent Variables Used in the Investigation*

<table>
<thead>
<tr>
<th>Name of Variable</th>
<th>Description of Variable</th>
<th>Measure Used to Determine the Variable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Levels of Social Media Use</td>
<td>Measures the degree to which individuals use social media</td>
<td>15 Likert items</td>
</tr>
<tr>
<td>Level of Social Media Use with Educational Issues</td>
<td>Self-reported measure of the level of social media use in regard to educational issues</td>
<td>1 Likert item</td>
</tr>
<tr>
<td>Level of Social Media Use as a Part of Work</td>
<td>Self-reported measure of the level of social media use as a part of work</td>
<td>1 Likert item</td>
</tr>
<tr>
<td>Free Speech Disposition</td>
<td>Measures participants’</td>
<td>4 Likert items mean</td>
</tr>
<tr>
<td>Scale</td>
<td>dispositions toward free speech</td>
<td></td>
</tr>
<tr>
<td>-------</td>
<td>---------------------------------</td>
<td></td>
</tr>
<tr>
<td>Perceived Free Speech (Education) Law Knowledge</td>
<td>Measures perceived knowledge of Free Speech (Education) Law</td>
<td>1 Likert self-report question</td>
</tr>
<tr>
<td>Free Speech (Education) Law Knowledge</td>
<td>Measures actual knowledge of free speech (education)</td>
<td>13 True/ False/ Unsure questions mean</td>
</tr>
<tr>
<td>12 Different Mediators of Social Media Use</td>
<td>Measures the extent to which demographic and contextual factors are affecting levels of social media use</td>
<td>7 demographic questions, 3 Yes/ Unsure/ No contextual questions, and 2 Likert contextual items</td>
</tr>
</tbody>
</table>

**Procedures and Data Collection**

The researcher completed and formatted the survey questions, which can be found in Appendix A, for distribution. Once done, the faculty advisor electronically distributed a survey link to the targeted population using his blog and twitter account. The survey link directed the subjects to the survey and allowed them to complete the survey electronically. Once the subjects completed the survey, they were directed to a default screen asking them to pass the survey along to colleagues and/or friends who might not have been as engaged with social media as the initial solicited subjects. Those who were contacted by the initial survey subjects were asked to complete the survey as well. Participants completed the surveys between March and April 2012.

The data were collected through SurveyMonkey, which were accessible to the researcher and the faculty advisor. Through SurveyMonkey, data were collected using SSL (Secure Sockets Layer) technology. In this case, the technology used was Verisign certificate Version 3, 128 bit encryption. The same technology was used to allow access to the stored data by authorized persons only. SurveyMonkey also had physical security measures in place to protect confidential data, including 24/7 staffed surveillance, servers kept in locked cages, digital surveillance equipment monitoring servers, as well as a few others. Additional measures of

In addition to storage through SurveyMonkey, response data was kept on the Ph.D. candidate’s personal computer as well as a personal storage device, both of which were password protected. These items were kept in the researcher’s physical home, which remained locked when no one is present. The data on these devices contained no more identifying information than the responses to the survey, which provided limited demographic information. Identification from data was additionally difficult given the lack of physical boundaries, which were circumvented through the use of the Internet.

**Data Analysis**

In examining the survey data, the researcher ran simple statistical analyses, correlations, analyses of variance (ANOVAs), and a regression analysis. Simple statistics included frequency as determined by demographic category, percentage response by question, and survey scores. Correlations were used to compare several variables, including Internet law knowledge, free speech as it relates to K-12 public education law knowledge, free speech disposition, and mediators of social media use. ANOVAs were calculated to evaluate the differences between two or more populations in the study. Last, a regression analysis was performed to determine predictors of social media use.

More specifically, to answer how and to what extent K-12 educators were utilizing social media, descriptive data was compiled. Frequency and percentage data were given for use of fifteen key social media applications. From these, the researcher established the degree of use for the various social media applications. Additionally, a usage mean was computed from Likert type responses to the same fifteen key social media applications in order to address Research Questions 4 and 5.

In order to determine what K-12 educators who were utilizing social media at the time of the survey knew about educational law, they responded to a series of thirteen true or false statements. The researcher used the responses to these statements to compute a legal knowledge of free speech as it relates to education score. This variable was compared with other variables, including level of legal training and self-reported level of legal knowledge, by checking for correlations.
In addition to the above, the researcher compiled a free speech disposition scale based on four Likert type items. These items were designed to address what the dispositions of K-12 educators who were utilizing social media were toward the First Amendment as it relates to free speech and education. This disposition scale was designed to measure the participants’ overall prevailing tendency, mood, or inclination toward the First Amendment. To expand, the goal was to scale the extent to which the participants responded favorably or unfavorably to the First Amendment. McMillan and Schumacher (2006) note that such scales “are used extensively in questionnaires because they allow fairly accurate assessments of beliefs or opinions.” This mean was given as a descriptive statistic.

To understand how educators’ knowledge of and dispositions toward the First Amendment are related to their social media use, the researcher calculated a scale for each of these measures. These scales were then checked for correlations.

Finally, to determine the demographic or contextual factors that mediated social media use, ANOVAs were used to evaluate significant differences among different demographic groups and contextual factors. Additionally, a regression analysis was performed to identify significant predictors of social media use.

In this manner, the data were compiled and analyzed to answer the research questions. Table 7 presents the specified approach.

Table 7

<table>
<thead>
<tr>
<th>Research Questions and Data Analysis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research Question</td>
</tr>
<tr>
<td>-------------------</td>
</tr>
<tr>
<td>1. How and to what extent are K-12 educators utilizing social media?</td>
</tr>
<tr>
<td>2. What do K-12 educators who are utilizing social media know about First</td>
</tr>
<tr>
<td>Question</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Amendment law as it relates to free speech and educational issues or concerns?</td>
</tr>
<tr>
<td>3. What are the free speech dispositions of K-12 educators who are utilizing social media toward the First Amendment as it relates to free speech and educational issues or concerns?</td>
</tr>
<tr>
<td>4. How are educators’ knowledge of and dispositions toward the First Amendment related to their use of social media?</td>
</tr>
<tr>
<td>5. What demographic or contextual factors mediate those relationships?</td>
</tr>
</tbody>
</table>
Pilot Study

Before the survey instruments were administered to the purposefully selected population, the researcher piloted the survey instrument on a group of 15 people for educational purposes in March 2012. The researcher then made any necessary alterations before administering the actual survey.

Delimitations

Although it is the hope that this research resulted in data of importance to K-12 educators nationwide, it is important to delimit the results to the population included in this study. These data were representative of a purposefully selected population of known social media users, and those users were socially linked with the faculty advisor of this study. Additionally, these data were specific to the time frame during which they were collected.
CHAPTER 4

Results

In the constantly evolving world of social media, understanding can be gleaned from data to help reveal how and to what extent educators are using social media. Also, the degree to which levels of use are related to knowledge and attitudes of First Amendment jurisprudence is worth considering as social media expand the possibilities for free expression. This study was guided by the following research questions:

1. How and to what extent are K-12 educators utilizing social media?
2. What do K-12 educators know about First Amendment law as it relates to free speech and educational issues or concerns?
3. What are the free speech dispositions of K-12 educators?
4. How are educators’ knowledge of and dispositions toward the First Amendment related to their use of social media?
5. What demographic or contextual factors mediate those relationships?

To answer these questions, 554 people responded to the solicitation to complete the survey (see Appendix A for the survey) and SPSS 20 was used to analyze the data. Ten people who responded were from outside of the United States, so their responses were eliminated. One person did not consent, so the total number of cases in the analysis was 543. In some instances, where respondents failed to provide data, the sample size associated with analyses that follow may be lower than 543. Regardless, in all instances, the size of the sample allows for reasonable generalizations. A sample of 543 allows for generalization to the 7.2 million teachers in the United States with a 95% confidence level at a confidence interval of 4.21.

The Population

Of the survey respondents who completed the demographic data, just over 60% were female (n = 449). Additionally, over 40% were between the ages of 30 and 39 (n = 450) and 30% were between the ages of 40 and 49. A more specific breakdown can be seen in Table 8.
Table 8

Gender by Age Crosstabulation

<table>
<thead>
<tr>
<th>Gender</th>
<th>29 or younger</th>
<th>30-39</th>
<th>40-49</th>
<th>50-59</th>
<th>60 or older</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Female</td>
<td>6.5% (n=29)</td>
<td>21.2%</td>
<td>19.8%</td>
<td>11.4%</td>
<td>1.3% (n=6)</td>
<td>60.1%</td>
</tr>
<tr>
<td>Male</td>
<td>2.9% (n=13)</td>
<td>19.2%</td>
<td>10.5%</td>
<td>5.6%</td>
<td>1.8% (n=8)</td>
<td>39.9%</td>
</tr>
<tr>
<td>Total</td>
<td>9.4% (n=42)</td>
<td>40.3%</td>
<td>30.3%</td>
<td>16.9%</td>
<td>3.1% (n=14)</td>
<td>100%</td>
</tr>
</tbody>
</table>

The respondents in the survey were mostly white (non-Hispanic), comprising almost 95% of those who completed the demographic question about race (n = 448). Table 9 gives the specifics of each response.

Table 9

Race

<table>
<thead>
<tr>
<th>Race</th>
<th>Number of People</th>
</tr>
</thead>
<tbody>
<tr>
<td>White (Non-Hispanic)</td>
<td>94.8% (n=420)</td>
</tr>
<tr>
<td>Black or African-American</td>
<td>1.8% (n=8)</td>
</tr>
<tr>
<td>Hispanic</td>
<td>1.6% (n=7)</td>
</tr>
<tr>
<td>Asian</td>
<td>0.7% (n=3)</td>
</tr>
<tr>
<td>American Indian or Alaska Native and White</td>
<td>0.9% (n=4)</td>
</tr>
<tr>
<td>Hispanic and White (Non-Hispanic)</td>
<td>0.4% (n=2)</td>
</tr>
<tr>
<td>Black or African-American and White (Non-Hispanic)</td>
<td>0.2% (n=1)</td>
</tr>
<tr>
<td>Native Hawaiian or Other Pacific Islander and White (Non-Hispanic)</td>
<td>0.2% (n=1)</td>
</tr>
<tr>
<td>American Indian or Alaska Native, Hispanic, and White (Non-Hispanic)</td>
<td>0.2% (n=1)</td>
</tr>
<tr>
<td>American Indian or Alaska Native, Black or African American, and White (Non-Hispanic)</td>
<td>0.2% (n=1)</td>
</tr>
<tr>
<td>Total</td>
<td>448</td>
</tr>
</tbody>
</table>
Survey responses were collected from throughout the United States. Four states had over 32 responses, including Missouri (41), Virginia (35), Illinois (33), and Texas (32). In all, 42 states, the District of Columbia, and an International American School are represented. Figure 7 shows the actual representation of the 439 discernible responses.
Figure 7
Locations of Survey Respondents
The locations were also divided into rural, suburban, and urban categories. The 446 valid responses are shown in Figure 8.

Figure 8

Locale

![Pie chart showing distribution of locales: Suburban (58.1%), Rural (22.4%), Urban (19.5%).]

n = 466

Of the 445 people who identified their school sector, almost 83% were public school educators. In terms of school configuration, almost 38% of the valid responses were at the high school level, 18.7% were at the elementary level, 17.6% were at the middle school level, 12.4% were K-12, and the rest were at other configurations (n = 443). Figures 9 and 10 represent this graphically.
Figure 9

School Sector

![Pie chart showing school sector distribution]

n = 445

Figure 10

School Configuration

![Pie chart showing school configuration distribution]

n = 443
Most of the people who completed the demographic information have been in education for at least four years. More specifically, 31.9% have served between 4 and 10 years, 41.7% have served between 11 and 20 years, and 20.5% have served over 20 years (n=448). This is shown in Figure 11 below. Their positions at the time of the survey were varied. Even though the majority were teachers (55.7%), over one-third (34.2%) had at least some level of administrative responsibilities (n = 447), and this is shown in Figure 12.

Figure 11

*Years in Education*
Figure 12

Position

- **Teacher**: 55.7%
- **Teacher with administrative responsibilities**: 12.8%
- **Administrator with teaching responsibilities**: 3.1%
- **School level administrator**: 10.7%
- **District, state, or federal administrator**: 7.6%
- **Other**: 10.1%

n = 447
Of the 446 responses about the level of education, 18.4% had a bachelor’s degree, 39.5% had a master’s degree, 33.9% had a master’s degree plus 30 hours, and 8.3% had a doctorate. When it came to law training, almost 4 in 10 educators had none (n = 450). Of the rest, 23.1% had a college course but no in-service training while 9.6% had an in-service training but no college course. Some had both a college course and an in-service training (16%). There were also those who had two college courses (6.7%) and those who had three college courses (4.7%). Lastly, two people (.4%) had a law degree. Levels of education and the levels of legal training are shown in Figure 13 and Figure 14 respectively.

Figure 13

Level of Education
Research Question 1

This survey began by attempting to answer how and to what extent educators are utilizing social media. Respondents were asked to identify how much they use 15 different forms of social media. In particular, these educators are most active on Facebook, Twitter, and YouTube. Over 69% of educators in the sample post to Facebook at least occasionally, and 79% are at least occasionally reading others’ Facebook posts. Over half (52%) are posting updates to Twitter at least a moderate amount (another 22% are doing so occasionally), and 46% are replying to others on Twitter at least a moderate amount (and another 22% are doing so occasionally). Even though 84% of these respondents rarely or never comment on YouTube videos, 84% are watching YouTube videos at least occasionally.
To a lesser extent, educators in the sample are also using other forms of social media. Almost half of those who responded are at least occasionally writing a blog to a post they manage (50%), commenting on a blog post (47%), participating in a webinar (52%), and listening to podcasts (52%). These responses to the fifteen social media items are initially represented in Figure 15 and displayed in detail in Tables 10A, 10B, and 10C.
Figure 15

Social Media Use 100% Stacked Bar Chart
Table 10A

**Social Media Use**

<table>
<thead>
<tr>
<th></th>
<th>Read others’ Facebook posts</th>
<th>Post to Facebook</th>
<th>Post updates to Twitter</th>
<th>Reply to others on Twitter</th>
<th>Watch YouTube videos</th>
</tr>
</thead>
<tbody>
<tr>
<td>A great deal</td>
<td>34.1%</td>
<td>16.5%</td>
<td>28.6%</td>
<td>22.6%</td>
<td>14.9%</td>
</tr>
<tr>
<td>A moderate amount</td>
<td>28.8%</td>
<td>25.3%</td>
<td>23.7%</td>
<td>23.3%</td>
<td>33.2%</td>
</tr>
<tr>
<td>Occasionally/ Sometimes</td>
<td>15.8%</td>
<td>27.5%</td>
<td>22.4%</td>
<td>24.2%</td>
<td>36.3%</td>
</tr>
<tr>
<td>Rarely</td>
<td>7.7%</td>
<td>13.2%</td>
<td>8.4%</td>
<td>12.8%</td>
<td>10.1%</td>
</tr>
<tr>
<td>Never</td>
<td>9.0%</td>
<td>13.0%</td>
<td>12.3%</td>
<td>12.7%</td>
<td>0.6%</td>
</tr>
<tr>
<td>Missing</td>
<td>4.6%</td>
<td>4.4%</td>
<td>4.6%</td>
<td>4.4%</td>
<td>5.0%</td>
</tr>
</tbody>
</table>

Table 10B

**Social Media Use Continued**

<table>
<thead>
<tr>
<th></th>
<th>Comment on YouTube videos</th>
<th>Post pictures to Flickr</th>
<th>Comment on pictures posted to Flickr</th>
<th>Write a blog post you manage</th>
<th>Write a post to a multi-authored blog</th>
</tr>
</thead>
<tbody>
<tr>
<td>A great deal</td>
<td>0.6%</td>
<td>2.9%</td>
<td>0.7%</td>
<td>11.4%</td>
<td>3.3%</td>
</tr>
<tr>
<td>A moderate amount</td>
<td>2.0%</td>
<td>6.2%</td>
<td>3.1%</td>
<td>17.1%</td>
<td>4.6%</td>
</tr>
<tr>
<td>Occasionally/ Sometimes</td>
<td>9.0%</td>
<td>11.7%</td>
<td>3.1%</td>
<td>21.5%</td>
<td>13.6%</td>
</tr>
<tr>
<td>Rarely</td>
<td>31.9%</td>
<td>17.1%</td>
<td>18.7%</td>
<td>13.6%</td>
<td>16.5%</td>
</tr>
<tr>
<td>Never</td>
<td>51.7%</td>
<td>57.2%</td>
<td>69.5%</td>
<td>31.7%</td>
<td>56.9%</td>
</tr>
<tr>
<td>Missing</td>
<td>4.8%</td>
<td>4.8%</td>
<td>4.8%</td>
<td>4.8%</td>
<td>5.1%</td>
</tr>
</tbody>
</table>
In addition to the questions asked above, respondents were asked to rate their level of social media use based on those responses. The first of the two questions asked them to rate how often they use social media to write about or discuss educational issues (n = 522), and the second asked them to rate how often they use social media as a part of work (n = 520). About one-third of the sample uses social media a great deal for both writing about or discussing educational issues (33%) and as a part of work (34%). Another 50% use social media a moderate amount or occasionally to write about or discuss educational issues, and 46% use social media a moderate amount or occasionally for work. The results can be seen in Figure 16.
Research Question 2

Research question 2 sought to determine what educators know about the First Amendment right to free speech as it relates to education. Prior to asking respondents to identify whether or not a series of statements were true or false, they were asked to self-report their level of legal knowledge. These responses are shown in Figure 17.
The responses to the legal statements are identified as either correct or incorrect/unsure in Table 11. Depending on the statement, at least 450 people responded, but no more than 454 responded.
Table 11  

*First Amendment Statement Responses*

<table>
<thead>
<tr>
<th>Statement</th>
<th>Correct</th>
<th>Incorrect or Unsure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teachers can be prohibited from promoting political candidates in a classroom.</td>
<td>81.7%</td>
<td>18.3%</td>
</tr>
<tr>
<td>Schools have the right to require supplemental material approval by administrators in advance without violating teachers' academic freedom.</td>
<td>76.5%</td>
<td>23.5%</td>
</tr>
<tr>
<td>Teachers may be legally made to conform to a particular dress code.</td>
<td>75.0%</td>
<td>25.0%</td>
</tr>
<tr>
<td>Academic freedom generally protects teachers who discuss controversial subjects if they are relevant, appropriate for the age and maturity of the students, and do not cause a disruption.</td>
<td>74.9%</td>
<td>25.1%</td>
</tr>
<tr>
<td>Teachers can teach sex education, race relations, or other controversial issues in history or civics classes despite heated parental protest.</td>
<td>72.9%</td>
<td>27.1%</td>
</tr>
<tr>
<td>Comments made by a public educator on matters of public concern might not be protected speech if they are made as part of the educator’s official duties.</td>
<td>71.5%</td>
<td>28.5%</td>
</tr>
<tr>
<td>Based upon a teacher’s personal and religious beliefs, a public school teacher can refuse to teach the prescribed curriculum concerning patriotic matters.</td>
<td>61.3%</td>
<td>38.7%</td>
</tr>
<tr>
<td>Teachers have the legal authority to select the texts for their students.</td>
<td>56.1%</td>
<td>43.9%</td>
</tr>
<tr>
<td>An oath that a teacher will &quot;faithfully perform&quot; his/her duties is constitutional.</td>
<td>54.6%</td>
<td>45.4%</td>
</tr>
<tr>
<td>A teacher can be fired for belonging to a communist, Nazi, or revolutionary organization.</td>
<td>45.8%</td>
<td>54.2%</td>
</tr>
<tr>
<td>Teachers may wear political buttons, badges, or armbands to class.</td>
<td>33.0%</td>
<td>67.0%</td>
</tr>
<tr>
<td>Teachers can be required to swear that they are not subversives and will not teach others to overthrow the government by force or revolution.</td>
<td>31.9%</td>
<td>68.1%</td>
</tr>
<tr>
<td>Public school teachers can be disciplined for publicly criticizing school policies of community concern.</td>
<td>26.2%</td>
<td>73.8%</td>
</tr>
</tbody>
</table>

Overall, the educators in this sample did not demonstrate adequate legal knowledge in regards to the First Amendment as it relates to free speech and education. Of the valid responses (n = 455), just over one-third of the educators (35%) demonstrated adequate legal knowledge, which is here defined as having correctly identified nine of the thirteen true/false/unsure statements (thus scoring 69% or greater). Individually, 32% of the teachers demonstrated
adequate legal knowledge compared to 41% of those who were administrators or had administrative responsibilities and 31% of those who classified themselves as “other.” For the entire sample, the mean was 58%, the median was 62%, and the mode was 62%.

Even though the majority of educators did not demonstrate adequate legal knowledge with this list of statements, there were six items where at least 71% of educators correctly identified whether the statement was true or false. Almost 82% knew that teachers can be prohibited from promoting political candidates in a classroom, and 77% knew that schools have the right to require supplemental material approval by administrators in advance. Three-fourths knew that teachers can be made to conform to a particular dress code in addition to knowing that academic freedom generally protects teachers who discuss controversial subjects even if they are relevant, age appropriate, and do not cause a disruption. Similarly, 73% knew that teachers can teach sex education, race relations, or other controversial issues in history or civics classes despite heated parental protest. Finally, over 71% of the educators surveyed knew that comments made by a public educator on matters of public concern might not be protected speech if they are made as a part of the educator’s official duties.

On the other end of the spectrum, there were three statements that over two-thirds of the educators got wrong or were unsure of. Of the educators surveyed, 67% did not know that teachers may wear political buttons, badges, or armbands to class. Additionally, 68% did not know that teachers cannot be required to swear that they are not subversives and will not teach others to overthrow the government by force or revolution. Finally, 74% incorrectly believed that public school teachers can be disciplined for publicly criticizing school policies of community concern. This last item brings to light a noteworthy piece of information: even though a considerable majority of educators incorrectly believe they can be disciplined for criticizing schools policies of community concern or are unsure about whether or not they can be, many are using social media to do just that.

This study has several items for comparison with other studies noted in Chapter 2; many of them contain differences. For example, Ogletree and Lewis (1986) found that 56% of administrators and 50% of those who had taken a law course knew about the right to teach controversial subjects that are related to course content. In this study, 73% knew teachers can teach sex education, race relations, or other controversial issues in history or civics classes despite heated parental protest. While only 26% of educators in this study knew public school
teachers cannot be disciplined for publicly criticizing school policies of community concern, 56% of the Ogletree and Lewis sample knew that teachers have the right to criticize their superiors, both openly and privately, on issues of public concern. Finally, 58% of those who had taken a law course in the Ogletree and Lewis sample knew that negative oaths prohibiting subversive acts were unconstitutional. In this study, only 29% of the sample who had taken at least one law course knew that such oaths are unconstitutional.

The Schimmel and Militello study (2007) had a section of true/false statements regarding teacher rights and responsibilities. Of the 17 questions, over 50% of the respondents were wrong or unsure about 11 of them (65%). In this study, over 71% of the respondents correctly identified six of the 13 statements, and 50% of the respondents were wrong or unsure about 4 of them (31%). While Schimmel and Militello found that over 75% of teachers surveyed had not taken any courses in school law, this study found 57% of teachers surveyed had not taken any courses in school law (n = 249).

Militello, Schimmel, and Eberwein (2009) studied secondary school principals’ knowledge of the rights of students and teachers. Most (91%) of them knew principals have the right to approve supplemental material in advance; in this study, almost 77% of respondents correctly identified this statement. Similarly, 81% in that study and 75% in this study knew that academic freedom generally protects teachers who discuss controversial subjects if they are relevant, age appropriate, and do not cause a disruption. Militello, Schimmel, and Eberwein also found that only 54% of the secondary school principals knew that teachers could not be punished for publicly criticizing school policies of community concern. This was much higher than the 26% of correct responses in this study. Even though the secondary school administrators did not know that schools can impose rigid dress codes on teachers (52%), the respondents in this study did (75%).

Research Question 3

Research Question 3 endeavored to determine the free speech dispositions of K-12 educators. In effort to do this, seven statements were presented in the survey. The responses are shown in Figure 18 and detailed in Table 12.
Figure 18

*Free Speech Item 100% Stacked Bar Chart*

Free Speech is the single most important right. The government is responsible for creating public places. All speech should be protected. Educators should be allowed to speak freely. Government employees should not be subject to discipline for speaking freely. People should be allowed to burn the American flag. The First Amendment goes too far.

- **Missing**
- Almost completely or completely disagree
- Somewhat disagree
- Neutral or unsure
- Somewhat agree
- Almost completely or completely agree
Table 12

*Free Speech Item Percentages*

<table>
<thead>
<tr>
<th>Statements</th>
<th>Missing</th>
<th>Almost completely disagree</th>
<th>Somewhat disagree</th>
<th>Neutral or unsure</th>
<th>Somewhat agree</th>
<th>Almost completely agree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free Speech is the single most important right American citizens have.</td>
<td>11.4%</td>
<td>1.3%</td>
<td>3.2%</td>
<td>6.3%</td>
<td>42.6%</td>
<td>35.2%</td>
</tr>
<tr>
<td>The government is responsible for creating public places to give American citizens a means to exercise their free speech rights.</td>
<td>11.4%</td>
<td>8.3%</td>
<td>16.6%</td>
<td>24.5%</td>
<td>26.2%</td>
<td>13.0%</td>
</tr>
<tr>
<td>All speech, including speech about public or private matters, should be protected.</td>
<td>11.6%</td>
<td>1.3%</td>
<td>11.2%</td>
<td>10.8%</td>
<td>35.2%</td>
<td>30.0%</td>
</tr>
<tr>
<td>As government employees, educators should be allowed to speak freely on any issues of social or political concern to the community, including educational issues.</td>
<td>11.4%</td>
<td>1.6%</td>
<td>6.5%</td>
<td>8.8%</td>
<td>33.0%</td>
<td>38.6%</td>
</tr>
<tr>
<td>Government employees, including educators, should not be subject to disciplinary action for speaking freely on any issues of social or political concern to the community.</td>
<td>11.6%</td>
<td>2.7%</td>
<td>10.1%</td>
<td>9.2%</td>
<td>31.0%</td>
<td>35.4%</td>
</tr>
<tr>
<td>People should be allowed to burn or deface the American flag as a political statement.</td>
<td>11.7%</td>
<td>26.0%</td>
<td>11.7%</td>
<td>12.5%</td>
<td>15.7%</td>
<td>22.4%</td>
</tr>
<tr>
<td>Based on your own feelings about the First Amendment, how do you feel about the following statement: The First Amendment goes too far in the rights it guarantees.</td>
<td>11.4%</td>
<td>45.1%</td>
<td>20.9%</td>
<td>10.8%</td>
<td>7.9%</td>
<td>3.8%</td>
</tr>
</tbody>
</table>
The responses to the previous seven questions were analyzed in effort to measure the free speech dispositions of the sample. The first step in this process was a factor analysis of the seven items, conducted to see if any combination of the seven items would yield a valid and reliable scale. The scree plot (Figure 19) indicated there were two factors from the seven questions. Utilizing a Varimax rotation method, the first factor identified five items (Table 13). These five items were analyzed for reliability. Cronbach’s alpha for the five item analysis was .686. In an effort to produce a reliable measure, the decision was made to select only the items that loaded on the factor at .3 or higher. This eliminated one item (The First Amendment goes too far…), and produced a scale with a reliability of .731. This is considerably higher than the .590 Cronbach’s alpha for the second scale. As a result, the decision was made to use four items from the first scale to measure the free speech dispositions of the educators in this sample:

- The right to free speech is the single most important right American citizens have.
- All speech, including speech about public or private matters, should be protected.
- As government employees, educators should be allowed to speak freely on any issues of social or political concern to the community, including educational issues.
- Government employees, including educators, should not be subject to disciplinary action for speaking freely on any issues of social or political concern to the community.
Figure 19

Free Speech Factor Analysis Scree Plot
Based on the information and decision made above, the four items were combined into a scale to measure the free speech dispositions of K-12 educators. Values for the Likert items ranged from one to five, with five representing the maximum value in favor of free speech. For the 481 people who were measured by this scale, the mean was 4.07, the median was 4.25, and the mode was 4.00. These, combined with the histogram in Figure 20, reveal an overall positive disposition toward free speech among K-12 educators.
Research Question 4

Research Question 4 sought to answer how educators’ knowledge of the First Amendment as it relates to education and their dispositions toward the First Amendment are related to their use of social media. In other words, Research Question 4 ties together the findings for the first three research questions. Based on a simple bivariate correlation analysis across the three constructs (social media use, legal literacy and attitudes toward the First Amendment), there was a weak positive relationship between social media use and disposition toward the First Amendment, $r(479) = .16$, $p < .01$. This indicates that the more an educator uses social media, the greater his or her disposition is to the First Amendment as it relates to
education, and vice versa. There was not a significant relationship between educators’ knowledge of the First Amendment and their use of social media, $r(455) = .029, p = .54$. In addition, no correlation was found between educators’ knowledge of the First Amendment as it relates to free speech in education and their dispositions toward the First Amendment, $r(453) = .019, p = .68$.

**Research Question 5**

Research Question 4 was answered based on a simple bivariate analysis. Research Question 5, however, attempts to determine what demographic or contextual factors mediated the relationships among social media use, level of legal knowledge as it relates to the First Amendment right to free speech, and disposition toward the first amendment. In order to do this, each of these items were analyzed first with demographic characteristics and then with contextual factors. These items are specified in Table 14.

Table 14

*Examined Demographic and Contextual Factors*

<table>
<thead>
<tr>
<th>Demographic Factors</th>
<th>Contextual Factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Gender</td>
<td>1. Whether or not the division had a social media policy</td>
</tr>
<tr>
<td>2. Age</td>
<td>2. Whether or not the individual had been questioned or chastised about his or her social media use</td>
</tr>
<tr>
<td>3. Locale (Rural, Urban, and Suburban)</td>
<td>3. Whether or not the individual was aware of any coworkers who had been questioned or chastised about his or her social media use</td>
</tr>
<tr>
<td>4. Sector (Public and Private)</td>
<td>4. The extent to which the individual was concerned about being disciplined for expressing himself or herself online</td>
</tr>
<tr>
<td>5. Educator’s Level of Education</td>
<td>5. How supportive the educator’s administration was of social media use</td>
</tr>
<tr>
<td>6. Educator’s Level of Legal Training</td>
<td></td>
</tr>
<tr>
<td>7. Position</td>
<td></td>
</tr>
</tbody>
</table>

The following section is organized into two main subsections. First, descriptive statistics (mainly frequencies) are presented on the contextual factors since they have not been presented to this point. Second, relevant bivariate analyses were conducted to examine the relationship between two sets of factors (demographics and context) and the three main constructs under
study (social media use, legal literacy, and attitudes toward the First Amendment). In other words, after the descriptive statistics on the contextual factors, the second section might be conceived of as arranged according to the following 2x3 grid:

<table>
<thead>
<tr>
<th></th>
<th>DEMOGRAPHIC FACTORS</th>
<th>CONTEXTUAL FACTORS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Media Use</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legal Literacy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attitudes Toward the First</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Amendment</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

After those six sets of bivariate analyses are considered, the final subsection presents the results of a multivariate analysis (regression analysis, specifically) aimed at looking at mediating effects of the demographic and contextual factors.

*Contextual factors frequencies.* In order to address Research Question 5, the survey asked participants to respond to the five contextual factors noted above. The frequencies of the valid responses are shown in Figures 21 through 25. Of note, close to half (47.6%) of the educators in this survey were aware that they worked in a school or school division with a social media policy for educators. Although 15.8% of participants had been personally questioned or chastised about their social media use by someone in a supervisory capacity, the number more than doubles for those who know of someone else they work with who has been questioned or chastised about his or her social media use (34.2%). This also indicates that over one-third of those who responded to this survey question worked with someone who had been questioned or chastised about his or her social media use. Additionally, almost half (46%) of the participants with valid responses were at least slightly concerned they might be disciplined for expressing themselves online. Finally, over one in five (21.4%) of those with valid responses described their administration as “extremely supportive” of social media use.
Figure 21
*School Divisions and Social Media Policies for Educators*

- Social Media Policy: 47.6%
- Unsure: 18.7%
- No Social Media Policy: 33.8%

$n = 450$

Figure 22
*Whether or Not Participants Had Been Questioned or Chastised About Social Media Use*

- Not Questioned or Chastised: 83.5%
- Questioned or Chastised: 15.8%
- Unsure: 0.7%

$n = 449$
Figure 23

*Whether or Not Participants Knew Someone Else Who Had Been Questioned or Chastised About Social Media Use*

![Pie chart showing the percentage of participants who knew someone else who had been questioned or chastised about social media use.](chart1)

- Someone Else Not Questioned or Chastised: 58.5%
- Someone Else Questioned or Chastised: 34.2%
- Unsure: 7.3%

*n = 453*

Figure 24

*Educators’ Concern About Being Disciplined for Self-expression Online*

![Pie chart showing the percentage of educators’ concern about being disciplined for self-expression online.](chart2)

- No Concerns Whatsoever: 13.5%
- Extremely Concerned: 13.7%
- Not Very Concerned: 33.6%
- Slightly Concerned: 32.3%
- Neutral or Unsure: 6.9%

*n = 452*
Several relationships were considered to see if demographics were predictors of social media use, and several of them were. Those educators who had any administrative responsibilities reported a higher level of social media use than those who only had teaching responsibilities, $t(400) = -4.91, p < .01$. In addition, those who had at least some form of legal training reported a higher social media use mean than those who had none, $t(519) = -2.08, p = .04$. Level of education was also significant, $F(3, 442) = 3.48, p = .02$. Tukey post hoc comparisons revealed those with a doctorate ($n = 37$) reported a higher social media use mean than those with no more than a bachelor’s degree. Age was a predictor of social media use, $F(4, 445) = 2.65, p = .03$. Post hoc comparisons identified that those aged 60 and older ($n = 14$) reported a lower social media use mean than those who were between the ages of 40-49 and those between the ages of 50-59.

From the above comparisons, further investigation of one of the factors warrants noting here. In particular, those educators with administrative responsibilities reported significantly higher levels of use for 12 of the 15 forms of social media on the survey than those who had teaching responsibilities only. These include: posting updates to Twitter, $t(399) = -4.21, p < .01$; replying to others on Twitter, $t(400) = -4.13, p < .01$; watching YouTube videos, $t(398) = -2.83$, 

**Figure 25**

*Administrative Support of Social Media*

![Circle chart showing support levels]

- Not Supportive at All: 8.4%
- Not Very Supportive: 16.1%
- Somewhat Supportive: 32.0%
- Extremely Supportive: 21.4%

*n = 453*
p < .01; commenting on YouTube videos, \( t(400) = -3.35, p < .01 \); posting pictures to Flickr, \( t(398) = -4.64, p < .01 \); commenting on pictures posted to Flickr, \( t(398) = -3.56, p < .01 \); writing a blog post you manage, \( t(398) = -3.12, p < .01 \); writing a post to a multi-authored blog, \( t(397) = -2.77, p < .01 \); participating in a webinar, \( t(397) = -5.59, p < .01 \); listening to podcasts, \( t(395) = -2.59, p = .01 \); creating a podcast, \( t(396) = -2.84, p < .01 \); and editing Wikipedia entries, \( t(400) = -3.13, p < .01 \). Additionally, they reported higher levels of use of social media for educational issues, \( t(400) = -3.01, p < .01 \), and higher levels of social media use as a part of work, \( t(399) = -4.03, p < .01 \). The three social media items that were not statistically significant included reading others’ Facebook posts, \( t(399) = 1.43, p = .16 \), posting to Facebook, \( t(400) = .51, p = .61 \), and commenting on a blog post, \( t(398) = -1.41, p = .16 \).

A few of the demographic factors did not prove significant. These include gender, \( t(447) = -.56, p = .58 \); locale (rural, suburban, and urban), \( F(2, 443) = 1.14, p = .32 \); and sector (public and private), \( t(434) = -.86, p = .39 \).

In addition to the above tests, an independent samples t-test was also performed on survey distribution. Originally, the solicitation was sent out via the dissertation chair and his social media outlets, such as his blog and twitter account. At the conclusion of the survey, participants were asked to send the survey link to educators they knew and believed were using social media to a lesser extent. Almost half (49.3%) of the 450 valid responses in this survey came from those who completed the survey in response to the invitation from Dr. Becker (the dissertation chair), which he distributed via social media. Most of the rest of the responses came from those who received the link from a friend or colleague (40%), and the remaining 10.7% responded that they had received the survey another way or they were unsure how they received it. There was a significant difference of the reported levels of use between those whom Dr. Becker invited and those who got the survey another way, \( t(448) = -7.24, p < .01 \). Dr. Becker’s invitees had a higher social media use mean.

**Social media use and contextual factors.** Of the five contextual factors in this study, two of them were significantly related to social media use. First, those who had been questioned or chastised about their social media use reported a higher social media use mean, \( F(2, 446) = 7.43, p < .01 \). Additionally, those who described their administration as “extremely supportive”
also reported a higher social media use mean than those who did not, $t(519) = -3.51, p < .01$. The other three contextual factors did not prove significant.

**Legal knowledge and demographics.** Of the demographic factors considered, age was the only one that did not show a significant relationship with legal knowledge, $F(4, 445) = 1.05, p = .38$. The rest of the factors were significant. Males outscored females, $t(447) = -3.97, p < .01$, public school educators outscored private educators, $t(434) = -2.42, p = .02$, those who had at least some form of legal training outscored those who had none, $t(453) = -4.68, p < .01$, and those who had at least some administrative responsibility outscored those who had teaching responsibilities only, $t(400) = -3.02, p < .01$. Additionally, locale, $F(2, 443) = 4.06, p = .02$, and level of education, $F(3, 442) = 3.97, p = .01$, were significant. Tukey post hoc comparisons show that the rural educators significantly outscored suburban educators, and those with a doctorate or a master’s degree +30 outscored those with a bachelor’s degree.

In addition to these findings, this study confirms several relationships found in other studies. There is a moderate correlation between the self-report legal law knowledge item and knowledge item scores, $r(453) = .30, p < .01$. Also, the level of legal training was positively correlated with knowledge item scores, $r(453) = .25, p < .01$. Schimmel and Militello (2007) noted both of these positive correlations. Furthermore, Schimmel and Militello noted that both middle school and high school teachers outperformed their elementary counterparts. This study also confirms that finding, $F(6, 436) = 4.34, p < .01$. Post hoc comparisons revealed that elementary educators were outperformed by those at the middle school level, high school level, and those who served in a K-12 capacity. Additionally, this study confirms Schimmel’s and Militello’s finding that educators with a master’s degree + 30 credits and those with doctorates significantly outperformed those with only a bachelor’s degree, but unlike Schimmel and Militello, this study did not find a significant difference between those with a master’s degree and those with a bachelor’s degree, $F(3, 442) = 3.97, p = .01$. Finally, like Ogletree and Lewis (1986), this study found that those who had taken at least one school law course performed better than those who had not taken any, $t(448) = -4.70, p < .01$, and those who were administrators or had administrative responsibilities outscored those with teaching responsibilities only, $t(400) = -3.02, < .01$. 
**Legal knowledge and contextual factors.** Only one contextual factor proved to be significantly related to legal knowledge. Those who were not very concerned or not concerned whatsoever about being chastised outscored those who were at least slightly concerned or were neutral or unsure, $t(450) = -4.09, p < .01$. The other factors were not significant.

**Disposition toward the First Amendment and demographic factors.** The level of education was the only demographic factor significantly related to disposition toward the First Amendment. Those who had a doctorate reported a less favorable disposition toward the First Amendment than others, $t(479) = 2.55, p = .01$.

**Disposition toward the First Amendment and contextual factors.** Like the demographic factors, there is only one contextual factor related to disposition toward the First Amendment. Those who were extremely concerned they could be disciplined for expressing themselves online reported a more favorable disposition toward the First Amendment than others, $t(479) = 4.36, p < .01$. Aside from this, no other contextual factors were significantly related to the dispositional factor.

**Research Question 5 summary.** Research Question 5 sought to uncover the demographic and contextual factors that mediated relationships with social media use, legal knowledge, and dispositions toward the First Amendment as it relates to education. Preliminarily, a look at bivariate relationships reveals that both social media use and legal knowledge each had six factors mediating those relationships. Disposition toward the First Amendment as it relates to education had two. A summary of the findings are listed in Table 15.
Table 15

Research Question 5 Summary of Bivariate Findings

<table>
<thead>
<tr>
<th>Demographic Factors</th>
<th>Contextual Factors</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Social Media Use</strong></td>
<td>1. Those who had been questioned or chastised about their social media use reported a higher social media use mean than those who had not</td>
</tr>
<tr>
<td>1. Those with administrative responsibilities reported greater social media use than those with teaching responsibilities only</td>
<td>2. Those who described their administration as “extremely supportive” of social media use reported a higher social media use mean than those who described their administration otherwise</td>
</tr>
<tr>
<td>2. Level of education (those with a doctorate reported greater social media use than those with a bachelor’s)</td>
<td></td>
</tr>
<tr>
<td>3. Age (those between the ages of 40 and 59 were more active than those over 60)</td>
<td></td>
</tr>
<tr>
<td>4. Those with some legal training reported greater social media use than those who had none</td>
<td></td>
</tr>
<tr>
<td><strong>Legal Knowledge</strong></td>
<td>1. Those who were not very concerned or not concerned whatsoever outscored those who were at least slightly concerned or neutral or unsure</td>
</tr>
<tr>
<td>1. Gender (males outscored females)</td>
<td></td>
</tr>
<tr>
<td>2. Those with administrative responsibilities outscored those with teaching responsibilities only</td>
<td></td>
</tr>
<tr>
<td>3. Those with some legal training outscored those who had none at all</td>
<td></td>
</tr>
<tr>
<td>4. Level of education (those with a doctorate or a master’s +30 outscored those with a bachelor’s)</td>
<td></td>
</tr>
<tr>
<td>5. Locale (rural educators outscored suburban educators)</td>
<td></td>
</tr>
<tr>
<td>6. Sector (public educators outscored private)</td>
<td></td>
</tr>
<tr>
<td><strong>Disposition Toward the First Amendment</strong></td>
<td>1. Those who were extremely concerned about being disciplined for expressing themselves online had a more favorable disposition toward the First Amendment as it relates to education</td>
</tr>
<tr>
<td>1. Level of education (those with a doctorate had a less favorable disposition than others)</td>
<td></td>
</tr>
</tbody>
</table>
**Multivariate analysis.** A regression analysis was conducted that included legal knowledge and dispositions toward the First Amendment as predictors of social media use. Additionally, as potential mediating factors, any contextual or demographic factor that showed up as significantly related to social media use in the bivariate analyses was included as an independent variable. Model 1 includes only the legal knowledge and First Amendment dispositions factors. Model 2 added in demographic factors. Finally, Model 3 included contextual factors as well. Any categorical variable with more than two categories was converted to n-1 dummy variables, where n=the number of categories.

In each model, disposition toward the First Amendment was a positive, significant predictor of social media use. When the demographic and contextual factors were added, there were a few such factors that remained significant (and positive) predictors of levels of social media use. Among those were two demographic factors: whether or not the individual had administrative responsibilities and if the individual was between 40 and 49 years of age. Also, there were two contextual factors that are significant predictors: whether or not the individual had been chastised about his or her social media use and whether or not the individual had an extremely supportive administration. The values of the coefficients can be seen in Table 16.
Table 16

Predictors of Social Media Use

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1 B</th>
<th>B</th>
<th>95% Cl</th>
<th>Model 2 B</th>
<th>B</th>
<th>95% Cl</th>
<th>Model 3 B</th>
<th>B</th>
<th>95% Cl</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constant</td>
<td>2.44**</td>
<td>1.97**</td>
<td>[1.57, 2.37]</td>
<td>1.87**</td>
<td>1.42, 2.32</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legal Knowledge</td>
<td>0.07</td>
<td>-0.12</td>
<td>[-0.46, 0.21]</td>
<td>-0.13</td>
<td>-0.46, 0.20</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1st Amendment Disposition</td>
<td>0.12**</td>
<td>0.12**</td>
<td>[0.06, 0.18]</td>
<td>0.10**</td>
<td>0.04, 0.16</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Legal Training</td>
<td>0.06</td>
<td>-0.07, 0.18</td>
<td></td>
<td>0.05</td>
<td>-0.07, 0.18</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administrative Responsibilities</td>
<td>0.29**</td>
<td>0.16, 0.42</td>
<td></td>
<td>0.23**</td>
<td>0.10, 0.35</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Master's Degree</td>
<td>0.13</td>
<td>-0.04, 0.30</td>
<td></td>
<td>0.14</td>
<td>-0.02, 0.30</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Master's Degree +30</td>
<td>0.10</td>
<td>-0.09, 0.28</td>
<td></td>
<td>0.11</td>
<td>-0.07, 0.29</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Doctorate</td>
<td>0.24</td>
<td>-0.03, 0.50</td>
<td></td>
<td>0.24</td>
<td>-0.02, 0.50</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ages 20-29</td>
<td>0.38</td>
<td>-0.02, 0.77</td>
<td></td>
<td>0.31</td>
<td>-0.07, 0.70</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ages 30-39</td>
<td>0.32</td>
<td>-0.03, 0.69</td>
<td></td>
<td>0.31</td>
<td>-0.03, 0.65</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ages 40-49</td>
<td>0.38*</td>
<td>0.02, 0.73</td>
<td></td>
<td>0.37*</td>
<td>0.03, 0.72</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ages 50-59</td>
<td>0.30</td>
<td>-0.07, 0.67</td>
<td></td>
<td>0.34</td>
<td>-0.03, 0.70</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chastised</td>
<td></td>
<td></td>
<td></td>
<td>0.33**</td>
<td>0.17, 0.50</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not very supportive administration</td>
<td>0.06</td>
<td>-0.19, 0.30</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Neutral or unsure of administrative support</td>
<td>-0.02</td>
<td>-0.26, 0.21</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Somewhat supportive administration</td>
<td>0.04</td>
<td>-0.19, 0.27</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Extremely supportive administration</td>
<td>0.26*</td>
<td>0.03, 0.50</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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Note. N = 396. Cl = Confidence interval. *p < .05. **p < .01.

Ultimately, these findings suggest that the degree to which educators use social media is not related to their knowledge of the freedom of expression aspect of the First Amendment. However, the more strongly one feels about their right to freely express themselves, the more he/she uses social media. The effect of that disposition is only very slightly mediated by demographic and/or contextual variables. (The coefficient drops from .12 to .10).
CHAPTER 5

Conclusions and Implications

Summary

This study sought to learn more about K-12 educators and their use of social media, their knowledge of First Amendment law as it relates to free speech and education, and their dispositions toward the First Amendment. A survey research design was used to explore these constructs and their relation to each other. An invitation to complete a web-based survey was distributed through the principal investigator’s social media outlets, and the survey asked respondents to send a survey link to friends or colleagues who were in K-12 education and believed (by the survey respondents) to use social media to a lesser extent. The following five research questions were addressed in this study:

1. How and to what extent are K-12 educators utilizing social media?
2. What do K-12 educators know about First Amendment law as it relates to free speech and educational issues or concerns?
3. What are the free speech dispositions of K-12 educators?
4. How are educators’ knowledge of and dispositions toward the First Amendment related to their use of social media?
5. What demographic or contextual factors mediate those relationships?

According to the results of this study, this sample of K-12 educators is primarily using social media through Facebook, Twitter, and YouTube. Hampton, Goulet, Rainie and Purcell (2011) noted that 67% of those accessing Facebook were doing so at least three to five times a week. This study, which does not quantify usage in the survey instrument the same way Hampton et al. do, found that almost 63% of the K-12 educators surveyed described themselves as reading others’ Facebook posts at least a moderate amount (another 15.8% described their usage as occasionally/sometimes). Furthermore, almost 42% posted to Facebook at least a moderate amount (another 27.5% posted occasionally/sometimes).

This notes educators’ use of Twitter as much greater than what is described in the edWeb.net, MCH, Inc., and MMS Education (2009) study, which found 12% of educators using Twitter personally, 6% who use it professionally, and 2% who use it in the classroom. Here,
almost three-fourths of educators in this sample (74.7%) post updates to Twitter at least occasionally/ sometimes. When it comes to replying to others on Twitter, 70.1 % of them also do this at least occasionally/ sometimes. Just as this study found Twitter use to be increased, the same can be said for watching videos online. The edWeb.net, MCH, Inc., & MMS Education study found 38% of educators watch videos online on a weekly basis; this study found that 84.4% of K-12 educators in this sample watch YouTube videos at least occasionally/ sometimes.

In addition to these uses, this study of a targeted group of K-12 educators found that many of them are, at least occasionally, blogging (50%), commenting on blogs (47%), participating in webinars (52%), and listening to podcasts (52%). These numbers are also higher than the edWeb.net, MCH, Inc., and MMS Education (2009) numbers, which indicate that 10% maintain a personal blog, 26% read blogs, and 14% download podcasts on a weekly basis. While few educators used webinars personally or in the classroom, 35% of them used webinars professionally.

Furthermore, almost six out of ten (59.5%) also self-reported using social media for educational issues at least a moderate amount, and another 22.9% described their usage as occasional. Over six in ten (60.9%) self-reported using social media as a part of work, and another 18.7% described their usage as occasional. When these statistics are combined, this study indicates that over three-fourths of educators in this sample are using social media for educational issues or as a part of work.

Overall, these numbers indicate there is a critical mass of K-12 educators who are using social media extensively. Granted, the participants of this study were targeted as known social media users, but they also passed the survey along to social media users with an overall lower level of reported social media use.

When it comes to legal literacy for educators, this study supports a considerable amount of research that educators are not proficient when it comes to the law as applied to education (Schimmel & Militello, 2007; Eberwein, 2008; Militello, Schimmel & Eberwein, 2009). This study also found a positive correlation between level of legal training and legal item knowledge scores, which has been found elsewhere (Shimmel & Militello, 2007; Ogletree & Lewis, 1986). Furthermore, although this study did not find a significant difference for legal item knowledge scores between those with a bachelor’s degree and those with a master’s degree, this study found a significant difference for those between those with a bachelor’s degree and those with a
master’s degree +30 or those with a doctorate. Schimmel and Militello (2007) found a significant difference between those with a bachelor’s degree and those with a master’s degree, a master’s degree +30, or a doctorate. In addition to these findings, this study also confirms the Ogletree and Lewis finding that those with administrative responsibilities had significantly higher legal item knowledge scores than those who had teaching responsibilities only.

Unlike the other legal knowledge studies noted above, this study focused on the First Amendment and free speech for educators. Despite the widespread social media use and public criticism of school policies, including Ms. Q.’s blog about school lunch for example, only 26% of the educators in this survey knew they could not be disciplined for publicly criticizing school policies of community concern. This, in many regards, goes to a major focus of this study: regardless of a very poor understanding about what educators can legally say through social media, many educators are choosing to express themselves as they please anyway.

In terms of free speech dispositions of K-12 educators, there is little for comparison. Overall, this study found that K-12 educators in this sample have a very positive disposition toward free speech. That is, this targeted group of educators has strong feelings about their right to freely express themselves. In The Future of the First Amendment study (Dautrich, 2011), the authors found that 67% of the 900 high school teachers surveyed either mildly disagreed or strongly disagreed that the First Amendment goes too far in the rights it guarantees. In that same study, 95% either strongly agreed or mildly agreed with the statement “People should be allowed to express unpopular opinions.” In the United States, where the freedom of speech is guaranteed under the First Amendment, there is little surprise that American educators would have a positive disposition toward free speech.

Despite the fact that these educators have an overall positive disposition toward the First Amendment, this study found two items of note. First, those who were extremely concerned about being disciplined for expressing themselves online had a more favorable disposition toward the First Amendment as it relates to education. Thus, there is a fear of punishment in spite of a greater value on free speech, which could possibly stifle expression. In other words, there is a considerable group of educators out there who feel very strongly about their right to free expression and who are exercising that right via social media despite serious concerns about being disciplined. Second, those with a doctorate had a less favorable disposition toward the First Amendment than the other educators in this study. While the sample of those with a doctorate in
this study is relatively small (n = 34), there is a concern that the most educated educators, and the educators most likely to be instructing other educators, have a lesser disposition toward free speech.

Finally, this study found a weak positive correlation between levels of social media use and disposition toward the First Amendment. Additionally, the greatest demographic predictor of social media use was whether or not the educator had any administrative responsibilities, and the greatest contextual predictor was whether or not the educator had been questioned or chastised about his or her social media use by someone in a supervisory capacity. It is also noteworthy that educators who described their administration as extremely supportive of social media use had a significantly higher level of reported social media use.

Discussions

This study sought to understand the roles of social media, legal law knowledge of the First Amendment as it relates to free speech in education, and disposition toward the First Amendment in K-12 education. From this study, five main conclusions emerged:

1. There is a critical mass of K-12 educators who use social media; some use social media to a great degree.

2. Despite an overall lack of adequate legal knowledge of the First Amendment as it relates to K-12 public education, and in particular a misconception that educators are not legally able to express themselves on issues of public concern, many from this critical mass of social media-using K-12 educators choose to actively express themselves anyway.

3. Those educators from this sample with administrative responsibilities reported higher levels of social media use and have better legal knowledge of the First Amendment right to free speech as it relates to education than educators with teaching responsibilities only.

4. Schools with an administration that is “extremely supportive” of social media use are more likely to have educators from this substantial mass who are using social media.

5. The degree to which educators use social media is not related to their knowledge of the freedom of expression aspect of the First Amendment. However, the more
strongly one feels about his or her right to freely express himself or herself, the more he or she uses social media. The effect of that disposition is only very slightly mediated by demographic and/or contextual variables.

**Social media use.** This targeted sample of educators does not lend itself to generalization to K-12 educators in general. However, this study more than adequately makes the case that there is a critical mass of K-12 educators who are using social media. While there are many forms of social media available for use, many educators are using a few types of social media particularly conducive to sharing ideas: Facebook, Twitter, and blogs. With high levels of self-reported uses of social media for educational issues and for work (over half reported at least using social media these ways at least a moderate amount), there is little doubt that these educators not only have the means to express themselves about educational issues, but they are also actively doing so.

For public education and public educators, this places educator expression as a central issue for schools and school divisions. The problem lies in arriving at a balance between the rights of the citizen and the interest of state, as an employer, in promoting the efficiency of the educational mission, which it performs largely through its employees. For the most part, public educator speech is protected by rational basis scrutiny, which provides that government can suppress speech when the government has a legitimate interest and that the restriction can be easily related to that interest. For the efficient performance of public service, such as educating its citizens, states have a valid interest in suppressing speech that causes a disruption in the workplace. This disruption can include speech that adversely affects one’s own ability to efficiently perform his or her duties related to that public service or speech that disrupts the harmony and discipline of the workplace. Furthermore, the Supreme Court determined in *Garcetti* (2006) that speech made by a government employee as a part of that employee’s official duties is not protected speech. These limits highlight an important question: should public educators face additional limits on their freedom of speech because the government is their employer?

At this point in time, the courts have ruled that public employees should face these additional restrictions, but that does not mean that such a decision has come without dissent. In
particular, there has been significant concern about the implications of the *Garcetti* (2006) ruling. Farley (2007) writes that the Supreme Court’s decision is:

> ill advised because public employees are often the members of the community who have informed opinions regarding the operations of their public employers and at times, the operations of those employers are of substantial concern to the public. If these employees are not able to speak on these matters, the community would be deprived of informed opinions on important public issues. (p. 632)

As a part of his dissenting opinion in *Garcetti*, Justice Stevens determined that speech made pursuant to one’s official duties should be protected sometimes and not disregarded simply because the government is the employer. He referred to the idea of constitutional protection of the same words being decided by one’s job description as “senseless.”

Because of the concerns about lack of constitutional protection noted above, educators might be better served to address any issues by doing so publicly as a private citizen rather than attempting to address them “in-house” as an employee. This might happen by attempting to craft clear notice of intent, perhaps through explicit statements in social media bios or on blogs. On the face, this seems like an inadvisable alternative as it potentially brings issues to the public that might not previously have been. However, in order to receive the protection of the First Amendment, declaring oneself a private citizen and going public with concerns might be the more advisable rout for those educators fearful of retaliation.

For educators, social media presents additional difficulties for determining whether or not one is speaking as a private citizen or as a public employee. Expression can be quite specific, and the difficulty in ascertaining whether or not an issue is of public concern can become increasingly problematic. In addition, social media blurs the lines of location and forum, making it increasing difficult to establish whether or not the use in question is part of a public or private forum. For example, there are three aspects to consider in the following scenario: Is this about a parent, a teacher, or a citizen? Is this a personal issue or an issue of public concern? Is the forum public or private?

In this scenario, Jane Doe is a teacher at the local high school, and she has a son who attends there. After getting the recent marking report, Jane’s son compared grades and class rank with other students at the school. One afternoon a few days later, which happens to be a professional development day at school for teachers with no students in attendance, Jane’s son
has gotten upset to the point that he comes to see his mother at the school. He complains to her that he and his friends have a lower class rank than what they actually earned because there are several teachers in the school who give unearned grades to a certain group of students. After her son leaves, Jane gets on her iPhone and posts a message on Facebook (where Jane happens to be “friends” with her son and many of her son’s friends as well as their parents, including one parent who also teaches at the same school) saying that the local high school has several teachers who give grades unfairly, and they have done so for years. Furthermore, the administration has known about this practice for a long time, and the administration doesn’t seem as though it has done anything to change it, nor does it seem as though the administration has any interest in doing so. Next, she suggests that anyone else who thinks that this is wrong should go tell the school board at the next meeting. If they can’t make it to the next school board meeting (she adds), then they ought to say something to John Q. Schoolboardmember at the next ballgame because his son is on the team and he goes to all of the games.

The above scenario is not presented to be solved here. Rather, it is here to highlight a realistic possibility that supports the premise of how difficult it might be in determining the legal aspects of such a scenario. Such determinations are further complicated when users mix social and professional circles, which social media often does.

Even though social media allows educators to easily express ideas, social media does not make it easy to separate personal and professional social circles. Understandably, it is virtually impossible to have an unmistakable delineation between one’s social life and one’s professional life even without social media, but social media makes the distinction even more troublesome. Many people do not have separate social media accounts for their both their social and their professional lives, which leaves them with accounts being used for both. Subsequently, a conflicting interest will be ever-present. Compounding the issue, many users would prefer to have it both ways. More specifically, they would like to express themselves in a way that the expression is received by both private and professional audiences, but pick and choose their rights as it suits their particular needs at a particular time to a particular audience.

For the educators in this sample, this could be unwelcomed information. Their disposition toward the First Amendment was a significant predictor of social media use in the regression analysis. Thus, those who were more likely to have a favorable disposition toward the First Amendment were more likely to use social media. This means that not only do they face
additional restrictions on a constitutional protection that they feel positively about, but they are also putting themselves in a position of increased likelihood of finding themselves without the protection of speech they feel is so important.

Finally, one of the most significant predictors of social media use was whether or not the individual had been questioned or chastised about his or her use of social media. On the surface, there is a likely explanation: the more one uses social media, the more one is likely to be questioned or chastised about using it. Delving deeper, however, there is much to be said for those who are using social media in the face of being questioned or chastised. To expand, those who are using social media are expressing themselves despite at least some level of discomfort or adversity. Even though there is some pressure to stifle expression, there is a critical mass of educators who refuse to be silenced.

Not only is the expression of ideas fundamental to growth and progress, but it is also vital for a robust dialogue. Especially during the current era of standards and accountability, when public school educators stand on the defensive against attacks from multiple stakeholders, these educators need to feel free to add their voices to the policy conversations. Even though there is some risk that these educators might not have protected expression and they might face questioning or chastisement, they should be able to and are expressing themselves regardless. This exchange of ideas would appear to be the essence of the First Amendment protection of the freedom of speech, even if courts have ruled otherwise.

Expression despite inadequate legal knowledge of the First Amendment as it relates to the freedom of speech and K-12 public education. Many studies have documented overall inadequate legal knowledge among educators (Schimmel & Militello, 2007; Eberwein, 2008; Militello, Schimmel & Eberwein, 2009). This study finds an inadequate legal knowledge with specific regards to the First Amendment as it relates to the freedom of expression and K-12 public education, and this has several implications for educators.

Before addressing these, however, specific attention needs to be given to one of the true/false/unsure items in the survey, which goes to the essence of this study. In particular, only 26.2% of the educators in this sample knew that public school teachers cannot be disciplined for publicly criticizing school policies of community concern. This statement warrants exploration for a couple of reasons, but first, it should be noted that this item was first used in the Schimmel
and Militello (2007) study where 39.9% of the respondents answered correctly. The statement in this survey was only different in that the word “Public” was added to the beginning of the statement in hopes of adding clarity that the question referenced public school teachers, not private.

To be fair, one must consider whether or not this is a “trick question.” On its face, the question asks whether or not public school teachers can ever be disciplined for publicly criticizing school policies of community concern. In other words, are there uncommon exceptions which would make the correct answer difficult to ascertain? In particular, does the reference to “publicly criticizing” imply that such criticism must necessarily be done in a public forum? Or is it possible to understand the statement to mean that a criticism might be made in a “non-public” forum as a part of the educator’s official duties and the public witnesses it? In the event that such a scenario should take place, the Supreme Court clearly ruled in *Garcetti* (2006) that speech made as a part of one’s official duties is not considered protected speech. It is also important to note that 71.5% of the educators in this sample correctly knew that comments made by a public educator on matters of public concern might not be protected speech if they are made as a part of the educator’s duties. Thus, conclusions drawn are best considered in light of this understanding.

With the understanding that this critical mass of social media-using K-12 educators has inadequate legal law knowledge as it relates to the First Amendment and K-12 public education, and the realization that they incorrectly believe that they can be disciplined for expressing themselves online, it appears as though these educators are expressing themselves not only with a misunderstanding of the law, but also believing they might be doing so in spite of the law. Of course, this study does not consider whether or not the participants are self-regulating their content based on their legal perceptions, but it stands to reason that even if they were, they might be doing so incorrectly. The other concern here is that legal misunderstandings could stifle expression, and given how much these educators are expressing themselves and should be able to express themselves, this concern is worth mentioning.

In light of this, there is a compelling scenario through which the educators like those in this study are choosing to express themselves. Namely, the evidence suggests that these educators are dedicated to expressing themselves even though they believe they could face consequences for doing so and have possibly been questioned about or chastised for their social
media use by someone in a supervisory capacity. If this is combined with almost half of the respondents stating they work in schools or school districts with social media policies for educators, it is not difficult to understand the possibility that these educators might perceive their rights to the freedom of speech might be under attack. This is further supported by this study’s finding that those who were extremely concerned about being disciplined for expressing themselves online had a more favorable disposition toward the First Amendment as it relates to education. It should also be restated here that the disposition toward the First Amendment was a significant predictor of social media use, which in turn, supports the idea that these educators are dedicated to expressing themselves in the face of challenging circumstances, including the possibility that they might face limited protection for their expression.

Currently, many schools throughout the United States are employing or attempting to employ social media policies regulating use for educators in hopes of stopping inappropriate communication between educators and students. For example, New York City schools recently adopted a nine page set of guidelines for social media use (NYC Department of Education, 2012). The same can be said for the Hampton School Board in Virginia, which has also recently adopted a social media policy (Shalash, 2012). In addition to these attempts by schools, Missouri legislators attempted to pass a state law restricting teachers from communicating privately over the internet on social media sites, but the law was blocked by a county circuit court judge (Murphy, 2011).

**K-12 educators with administrative responsibilities.** The educators in this sample with administrative responsibilities scored significantly higher on the legal knowledge section than those with teaching responsibilities only, which is reasonable given a few factors. First, to become an educator with administrative responsibilities, an educator must very likely receive additional training, which is usually done through higher education programs. Many of these programs contain an educational law course, which provides administrators with a legal training that most educators who have teaching responsibilities only do not receive. Additionally, administrators are more likely to be exposed to and involved with scenarios involving legal issues as a part of their job duties. Combined, these more than likely offer a reasonable explanation as to why their legal knowledge as it relates to education, and in this study
particularly to the First Amendment as it relates to education, is greater than those with teaching responsibilities only.

The higher levels of reported social media use are rather enigmatic, and to offer an explanation here would be tenuous at best. Instead, an explanation is best left to future research as to why those with administrative responsibilities reported significantly higher use on 12 of the 15 forms of social media in addition to reporting higher social media use for educational issues and as a part of work. Nonetheless, it is noteworthy and presents evidence that those with administrative responsibilities are current, familiar with, and actively using social media technology more than those educators who have teaching responsibilities only.

With evidence suggesting that administrators both have better legal knowledge of the First Amendment as it relates to free speech and education and higher reported social media use, schools and school divisions have a valuable resource to use. Namely, given the current lack of legal understanding surrounding the use of social media, administrators are in a good position to receive a small amount of training and then in turn train other educators about legal issues concerning K-12 educators and the use of social media. The need for legal education is there, and many schools and school districts have concerns about educators and their use of social media. In light of this, it makes sense for schools and school divisions to take advantage of using their administrators to help confront concerns related to social media use. Not only will this help increase the educators’ understanding of their rights, but it will also help administrators, schools, and schools divisions increase their trust in the ways their educators are using social media. In turn, this will also likely help those with teaching responsibilities only trust their administrations when it comes to social media use.

Extremely supportive administrations. For proponents of social media use among K-12 educators, this is an encouraging piece of evidence: those who worked with administrations extremely supportive of social media use reported significantly higher levels of social media use. As such, the environment K-12 educators are working in can influence the extent to which they are using social media. Because those in this study with administrative responsibilities reported significantly higher levels of social media use, it would seem as though the environment should be conducive to social media use, but this does not appear to be the case.
Taken on the whole, there seems to be uneasiness about K-12 educators and their use of social media. Of the valid responses in this study, almost half reported working in a school or school division with a social media policy for educators, and over one-third reported knowledge of a coworker who had been questioned or chastised about his or her social media use from someone in a supervisory capacity. When this is combined with the sensationalism of social media stories involving educators in the classroom, there is little surprise that 46% of those in this survey with valid responses are at least slightly concerned they might be disciplined for expressing themselves online.

For those interested in creating a culture supportive of social media use among K-12 educators, the first issue that must be addressed is the fear of how K-12 educators use and will use social media. While social media use policies are in many ways understandable, consideration should be given to the nature of policy. In particular, are these policies designed to regulate social media use in an effort to regulate inappropriate behavior? Are they designed to regulate social media use in an effort to regulate unwanted speech that might cause a disruption in the learning environment? Or are they designed to regulate social media use in an effort to suppress speech?

It is difficult to imagine that most of the social media policies are designed to suppress expression, like political expression, for employees. It is less difficult to imagine that some policies have been created to regulate unwelcomed speech that causes a disruption, and it seems very likely that many policies have been created in an effort to regulate inappropriate behavior. In light of this, consideration should be given to whether or not regulating social media use is the best way for schools or school divisions to address unwanted expression or inappropriate behavior. Instead of attempting to regulate social media use, schools and school divisions would be better served with policies regulating unwanted speech and inappropriate behavior. This would be a positive first step to eliminating fear surrounding the use of social media. Namely, there is value in recognizing that social media in and of itself is not bad.

In addition to addressing the mentality of policing social media use, schools and school divisions would be well served to educate their educators about the law and school policies where there is particular concern. To be more specific, schools and school divisions should help educators understand the types of expression that are protected and those that are not in addition to those that might possibly be unwelcomed and likely to cause a disruption. For those schools
and school districts who have concerns of inappropriate behavior, this would also be a good time to address policies against such behavior, noting that such behavior is not tolerated in any form or fashion, including inappropriate behavior that uses social media as the medium. Done within close proximity of each other, this sends a message that social media use is welcome, but inappropriate behavior is not.

In addition to educating all educators, schools and school divisions should also take extra effort to educate administrators. Since administrators are responsible for supervising the conduct of the K-12 employees, they need additional support on understanding social media use and K-12 educators. Fortunately, this purposeful sample has reported higher social media use among administrators and they have demonstrated higher legal knowledge as it relates to the First Amendment right to free speech as it relates to education. As such, they should be receptive to such training, which might ultimately help them supervise and trust other educators. Reciprocated trust from the employees these administrators supervise would also prove beneficial, helping to allay fears.

Along with the efforts made to educate employees, schools and school divisions would be well-served to educate school board members, school lawyers, and school policy makers about social media use. All too frequently, policies are created as a reaction or their origin stems from fear. Because social media is constantly evolving and often misunderstood, schools and school divisions should seek to promote communication among all employees, school board members, school lawyers, and school policy makers. Furthermore, the lines of communication should be open before, during, and after the creation of any social media use policies.

The next step for proponents of social media use among K-12 educators is to begin an awareness campaign. In particular, proponents of social media use among K-12 educators need to help allay fears that social media use in and of itself is a bad thing in addition to promoting the benefits of social media use among K-12 educators. This can also be done by schools or school divisions that are interested in embracing the use of technology, and particularly the use of social media.

While much of this might be more easily said than done, the evidence here suggests that for those schools or school divisions interested in educational environments where educators support the use of social media, they would be well served to recruit and employ those types of administrators who are “extremely supportive” of social media use. Even though this research
does not specifically define what that means here, one can reasonably assume that a few standard questions about one’s use of social media and ones attitudes about social media use should give employers reasonable insight as to whether or not a potential administrator is “extremely supportive” of social media or not.

Finally, those educators with progressive social media interests might benefit from a similar approach to the one taken by the New York Times. Sonderman (2012) writes of a phone interview with Phil Corbett, the New York Times associate managing editor for standards. Corbett describes the reasons behind the decision to not have a very formal, detailed written social media policy. For one, he is concerned about the message that would be sent by asking employees to embrace and explore social media technology and then turn around and give them a bunch of rules that if they violate, they might face serious disciplinary action. Corbett goes on to sum up their position this way:

In general our message is that people should be thoughtful. They need to realize that social media is basically a public activity, it’s not a private activity, and that people will know that they work for the Times, that they are Times journalists, and will identify them with the Times. And so they should just keep that in mind and be careful not to do anything on social media that would undercut their credibility. (Sonderman, 2012, para. 5)

The overriding principal here consists of trust and sensibility. Without attempting to stoke the flames of the incendiary debate about whether or not educators, including teachers, are professionals, the position taken by the New York Times is one of treating their employees as sensible professionals. There is no need for a very detailed, formal written policy. For the purposes of education, schools and school divisions should carefully weigh the interests of all involved, consider whether or not potential behaviors or misconduct are already covered under existing policies, and then make a decision about the direction they wish to go with their social media policy, including whether or not they choose to have one at all.

**Implications for Policy**

First and foremost, it appears as though social media use among educators, and society in general for that matter, is here to stay for the foreseeable future. For some, social media
technology is welcomed and should be embraced by others as society moves forward into the 21st century. For schools and school divisions wishing to embrace this technology, they would be well served to make efforts to allay fears related to social media use through policies addressing infractions instead of social media use, training educators on expression as an educator and their policies, and hiring administrators deemed “extremely supportive” of social media use. Because this study found that those with administrative responsibilities are more likely to be using social media and had a better legal knowledge of the First Amendment as it relates to education, the challenge to find administrators who are familiar with and using social media should not be overwhelmingly difficult and schools or school divisions should have an easily trainable source of administrators capable of leading professional development about social media policies and educator expression.

Regardless of one’s position on the use of social media in education, all educators would benefit from providing a small amount of legal training in regards to free speech and educators. This research found that those with any legal training, including no more than an in-service training, performed better on the legal knowledge items. Providing a brief in-service training would be a worthwhile endeavor for schools or school divisions, especially given the pervasive use of social media among educators, which Schimmel and Militello (2007) also recommended (although their recommendation included more content and a slightly greater investment of time). This training could be conducted “in-house” by administrators as mentioned above. A small amount of preparation by an administrator and a brief in-service could go a long way toward preventing potential problems in this area.

For those who wish to fight against the use of social media in education, their efforts will more likely than not prove frustrating and futile. Some schools and even school systems have “banned” the use of such items in school for good intentions. For example, not only can the items used for this technology be disruptive to the learning process, but there are also safety risks for those who interact with others online. Additionally, students might be exposed to age-inappropriate ideas, images, and language. This is further complicated by those who might be exposed to any such material “second-hand.” For these reasons as well as some others, it is understandable that educators might wish to regulate this technology and the use of social media in schools.
If this is the goal of educators, they would better served focusing their policy efforts on the infraction, not the technology. For example, a student who is texting in class would be guilty of being off task and causing a disruption, which is well within the teacher’s rights to determine, instead of “using a cell phone in school.” The student is then disciplined through the school’s or school division’s behavioral policies, and there is no hassle in taking the cellphone and dealing with the associated frustrations. As another example, those who might video or otherwise record something that happens at school during the school day might be guilty of violating a confidentiality policy. In this case, schools would probably be justified in confiscating the recording device and if such a policy were challenged, it would likely be upheld through the courts. A policy regulating the use of certain technologies in schools is far more assailable than a policy protecting the privacy of its students.

The examples noted above apply to students, but the same could be applied to educators as well. For example, schools or school systems might have trouble limiting an educator’s expression, but they are well within their rights to have a policy prohibiting educators from violating student confidentiality. An educator “venting” online about a clearly identifiable student or group of students would have little recourse against such a policy. Schools or school systems that are interested in limiting educator expression would be best served implementing a policy prohibiting educators from disrupting the efficiency of the public service of education. Such a policy runs the danger of being too broad in scope, but schools and school districts could probably tailor such a policy that would limit its scope and serve their needs at the same time. A policy permitting the removal of an educator in such a circumstance would be subject to the scrutiny of the court system based on the perceived infraction, but such a policy is more likely to be upheld than a policy attempting to regulate speech, per se.

The suggestion for schools and school districts interested in limiting educator expression is not designed to be an attack on free speech. Rather, it is designed to address infractions in a plausible, although perhaps inadvisable, way. This suggestion highlights how the current balance favors the state’s interest over the private citizen’s free speech rights, and those with an interest in limiting educator expression have a means to do so. However, a school or school division determined to limit the expression of its educators should heighten concern among the educators within the school or school division as well as the citizens within its jurisdiction.
Finally, there seems to be at least some merit to the general processes of training and selecting administrators when it comes to legal knowledge. Some legal training versus none and level of education seem to have an impact on legal knowledge, which are usually requisites of administrative training programs. This might perhaps be coupled with “on the job” training for administrators, but these factors present themselves in this study as well as others (Schimmel & Militello, 2007; Ogletree & Lewis, 1986).

Implications for Future Research

There are a few areas of research that also warrant merit. First, there is an opportunity to study social media policy in schools and school divisions. What is the nature of social media use policies? More specifically, do they attempt to regulate social media use or inappropriate behaviors? Also, to what extent are efforts to regulate these types of technology helping or hindering educators as they attempt to educate students? Which policies, if any, seem to be more effective helping advance the educational mission? Finally, are there other unintended consequences of attempting to regulate social media use?

Next, educators could benefit from experimental research on legal training. This researcher contends that a brief in-service training could improve the legal knowledge of educators, particularly regarding their free speech rights and social media use. Schimmel and Militello (2007) believe there is a need for a one hour credit in educational law as a pre-service training requirement, and that the classroom teacher should participate in a six-to-ten-hour comprehensive unit on law for the classroom teacher. Educators on the whole do not have adequate legal knowledge of the law as it relates to education. A next logical step would be to develop and test programs of this nature.

Third, this study found that educators with administrative responsibilities in this purposeful sample reported significantly higher levels of social media use for 12 of the 15 types of social media in the survey in addition to higher reported use of social media for educational issues and also as a part of work. This finding remains unexplained by this research. With very little understanding of this phenomenon, questions abound for what this could mean on several fronts, including for the use of technology in education.
Fourth, what are the implications of having a school or school division with an administration that is extremely supportive of social media usage? What impact does this social media use have on learning? How does this impact the school climate? Additionally, how does this impact discipline within the school? As educators move forward into the 21st century, is there a place for or a need to embrace social media use?

Finally, as cases emerge involving K-12 educators, the freedom of speech, and social media in the future, how have they been influenced by case law such as Garcetti (2006)? How have the implications for the freedom of expression for educators using social media changed over time?

Limitations

There are a few factors creating limitations for this study. First, all of the data collected were self-report and there were no additional measures to validate participant responses. Furthermore, many of the participants in this study were selected as part of a purposeful sample. More specifically, the original invitation to complete the survey was distributed through the dissertation chair’s social media accounts. Those who completed the survey were asked to pass a link of the survey along to friends or colleagues in K-12 education and ask them to complete it as well. Although the population is in many ways diverse (the demographics are detailed in Chapter 4), it is not racially diverse. Finally, there were a couple of political factors immediately preceding or during data collection that may have affected the results. In particular, the Occupy Movement (a movement against social and economic inequality) had been and continued to be the focus of much attention. In addition, legislation designed to address the online theft of music, movies, and other copyrighted content (recognized by their acronyms SOPA and PIPA) became the target of online protests in January 2012.

Final Thoughts

Humans are social beings with an innate compulsion to express themselves. Throughout the course of history, humans have expressed themselves in the face of opposition, even to the point of death. One’s conscience, the impetus for expression, is dictated by the individual’s sense of right and wrong, not by a legal code written by others and ruled on by courts. It stands
to reason, then, that there should be little surprise that humans choose to express themselves even though they might face adverse consequences and might not have the legal right to do so. Ultimately, it is this free will, controlled by conscience, that will forever stand in the way of suppressing expression. Humans cannot be social creatures and remain indifferent to the world around them.

The various forms of social media are tools. They can be used for good or they can be used in nefarious ways, but the humans using them are the ones who decide for which end they will be used. Eliminating or restricting the forms of social media will not put an end to social interaction or expression, and it will not put an end to the various schemes of humans. Both the World Wide Web and social media have changed the world in ways that will take years to fully understand, but they have not changed the essence of humanity. Instead, they have made it easier for humans to do the things they are going to do.

When Mrs. Q. began her blog on school lunch, she did not do so because she was extraordinary human being. The self-described yes man who does what she is told opened her “On being a chicken” blog from January 17, 2010 with “If you lined up all the teachers and staff in my school in a search for who might possibly write a blog like this, I would be one of the last chosen.” She chose to start her blog because of the innate human compulsion to express oneself and her conscience led her to do so. Mrs. Q. is an ordinary person, and the authors of the Bill of Rights found the idea of the freedom of expression so fundamental to humans that they chose to include it as a part of the First Amendment, guaranteeing that right for ordinary people just like Mrs. Q.
Appendix A

Survey

Section I – Level of Social Media Use

In this section, you will be asked to fill in a chart that matches various social media with the amount you use them. This information will be combined to determine your level of social media use. Additionally, you will be asked a follow-up question to determine how often you use social media to write about or discuss educational issues.

1. Please indicate the level that most closely represents how often you engage in the following activities on various forms of social media:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Never</th>
<th>Rarely</th>
<th>Occasionally / Sometimes</th>
<th>A moderate amount</th>
<th>A great deal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Read others’ Facebook posts</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Post to Facebook</td>
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<td></td>
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<tr>
<td>Post updates to Twitter</td>
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<td>Reply to others on Twitter</td>
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<tr>
<td>Watch YouTube videos</td>
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<tr>
<td>Comment on YouTube videos</td>
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<td></td>
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<tr>
<td>Post pictures to Flickr</td>
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<tr>
<td>Comment on pictures posted to Flickr</td>
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<td>Write a post to a blog you manage</td>
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<td>Write a post to a multi-authored blog</td>
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<tr>
<td>Comment on a blog post</td>
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<tr>
<td>Participate in a webinar</td>
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<tr>
<td>Listen to podcasts</td>
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<tr>
<td>Create a podcast</td>
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<tr>
<td>Edit Wikipedia entries</td>
<td></td>
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</tbody>
</table>

2. Considering your responses to item #1 above, overall, about how often do you use social media to write about or discuss educational issues?
   A. Never
   B. Rarely
   C. Occasionally / Sometimes
   D. A moderate amount
   E. A great deal
3. Overall, about how often do you use social media as part of your work (either as a teacher or an administrator)?
   A. Never
   B. Rarely
   C. Occasionally / Sometimes
   D. A moderate amount
   E. A great deal

Section II – Free Speech Disposition Scale

For the next series of questions, you will be asked about free speech issues. You will be given several statements and asked to indicate the level to which you agree or disagree with each one. Your responses will be used to measure how you feel about free speech issues.

For the following, please read the statement and indicate the level to which you agree or disagree.

4. The right to free speech is the single most important right American citizens have.
   A. Almost Completely or Completely Disagree
   B. Somewhat Disagree
   C. Neutral or Unsure
   D. Somewhat Agree
   E. Almost Completely or Completely Agree

5. The government is responsible for creating public places to give American citizens a means to exercise their free speech rights.
   A. Almost Completely or Completely Disagree
   B. Somewhat Disagree
   C. Neutral or Unsure
   D. Somewhat Agree
   E. Almost Completely or Completely Agree

6. All speech, including speech about public or private matters, should be protected.
   A. Almost Completely or Completely Disagree
   B. Somewhat Disagree
   C. Neutral or Unsure
   D. Somewhat Agree
   E. Almost Completely or Completely Agree

7. As government employees, educators should be allowed to speak freely on any issues of social or political concern to the community, including any educational issues.
   A. Almost Completely or Completely Disagree
   B. Somewhat Disagree
   C. Neutral or Unsure
   D. Somewhat Agree
   E. Almost Completely or Completely Agree
8. Government employees, including educators, should not be subject to disciplinary action for speaking freely on any issues of social or political concern to the community.
   A. Almost Completely or Completely Disagree
   B. Somewhat Disagree
   C. Neutral or Unsure
   D. Somewhat Agree
   E. Almost Completely or Completely Agree

9. People should be allowed to burn or deface the American flag as a political statement.
   A. Almost Completely or Completely Disagree
   B. Somewhat Disagree
   C. Neutral or Unsure
   D. Somewhat Agree
   E. Almost Completely or Completely Agree

10. The First Amendment became part of the U.S. Constitution more than 200 years ago. Here is what it says: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech; or of the press; or of the right of people peaceably to assemble, and to petition the government for a redress of grievances.”

   Based on your own feelings about the First Amendment, how do you feel about the following statement: The First Amendment goes too far in the rights it guarantees.
   A. Almost Completely or Completely Disagree
   B. Somewhat Disagree
   C. Neutral or Unsure
   D. Somewhat Agree
   E. Almost Completely or Completely Agree

Section III – Perceived Free Speech in Education Knowledge

Very soon you will be quizzed with a series of statements designed to check your level of legal knowledge concerning the First Amendment right to free speech as it relates to educators. Before you begin this quiz, this next question will ask you to most closely identify how you currently feel about your understanding and level of legal knowledge of such issues.

11. Please rate your level of legal knowledge as it pertains to Free Speech rights and education:

    A) None
    B) Inadequate
    C) Adequate
    D) Proficient
Section IV – Free Speech in Education Knowledge

The next section contains a 13 question True/ False/ Unsure quiz about the First Amendment right to free speech as it relates to educators. Your score will be used to determine your level of legal knowledge about such issues.

Please select an answer for each of the following true or false questions.

12. Teachers can be required to swear that they are not subversives and will not teach others to overthrow the government by force or revolution.
   A. True
   B. False
   C. Unsure

13. An oath that a teacher will “faithfully perform” his/ her duties is constitutional.
   A. True
   B. False
   C. Unsure

14. A teacher can be fired for belonging to a communist, Nazi, or revolutionary organization.
   A. True
   B. False
   C. Unsure

15. Teachers can be prohibited from promoting political candidates in the classroom.
   A. True
   B. False
   C. Unsure

16. Teachers may wear political buttons, badges, or armbands to class.
   A. True
   B. False
   C. Unsure

17. Based upon a teacher’s personal and religious beliefs, a public school teacher can refuse to teach the prescribed curriculum concerning patriotic matters.
   A. True
   B. False
   C. Unsure

18. Teachers may be legally made to conform to a particular dress code.
   A. True
   B. False
   C. Unsure
19. Teachers can teach controversial issues in history or civics classes despite heated parental protest.
   A. True
   B. False
   C. Unsure

20. Public school teachers can be disciplined for publicly criticizing school policies of community concern.
   A. True
   B. False
   C. Unsure

21. Teachers have the legal authority to select the texts for their students.
   A. True
   B. False
   C. Unsure

22. Academic freedom generally protects teachers who discuss controversial subjects if they are relevant, appropriate for the age and maturity of the students, and do not cause a disruption.
   A. True
   B. False
   C. Unsure

23. Schools have the right to require supplemental material approval by administrators in advance without violating teachers’ academic freedom.
   A. True
   B. False
   C. Unsure

24. Comments made by a public educator on matters of public concern might not be protected speech if they are made as part of the educator’s official duties.
   A. True
   B. False
   C. Unsure

Section V – Factors Affecting Social Media Use

For the next series of questions, you will be asked about factors that affect your level of social media use. There are five questions in this section. The first will ask you about school or district policy. The next two will ask about the treatment of those who use social media. The last two will ask you to rate your fear of discipline and the support of your administration.
25. Does your school or district have a social media policy for educators?
   A. Yes
   B. Unsure/ I don’t know
   C. No

26. Have you ever been questioned or chastised about your use of social media by someone in a supervisory capacity to you?
   A. Yes
   B. Unsure/ I don’t know
   C. No

27. Are you aware of anyone you work with being questioned or chastised about his or her use of social media by an individual in a supervisory capacity?
   A. Yes
   B. Unsure/ I don’t know
   C. No

For the next two questions, please select the response that most closely represents how you feel about the following questions.

28. How concerned are you that you could be disciplined for expressing yourself online?
   A. I am extremely concerned
   B. I am slightly concerned
   C. I am neutral or unsure
   D. I am not very concerned
   E. I have no concerns whatsoever

29. How supportive is your administration of social media?
   A. Not supportive at all
   B. Not very supportive
   C. Neutral or unsure
   D. Somewhat supportive
   E. Extremely supportive

Section VI — Demographics

This last section will be used to collect demographic information for comparison purposes. All information provided will be kept secure and confidential.

30. Please indicate your gender:
   A. Female
   B. Male
31. Please indicate your age:
   A. 29 or younger
   B. 30-39
   C. 40-49
   D. 50-59
   E. 60 or older

32. Please indicate your race (check all that apply):
   A. American Indian or Alaska Native
   B. Asian
   C. Black or African American
   D. Hispanic
   E. Native Hawaiian or Other Pacific Islander
   F. White (Non-Hispanic)

33. Please indicate where you work by using the two character state or district code.

34. How would you describe your current school division?
   A. Rural
   B. Suburban
   C. Urban

35. How many years have you been employed in education?
   A. I am still in training
   B. Under 3 Years
   C. 4-10 Years
   D. 11-20 Years
   E. 21 Years or More

36. What position in education do you currently hold?
   A. Teacher
   B. Teacher with Administrative Responsibilities
   C. Administrator with Teaching Responsibilities
   D. School Level Administrator
   E. District, State, or Federal Administrator
   F. Other
37. What age configuration do you serve in your current position (select the choice that best represents your role)?
   A. Elementary
   B. Elementary and Middle
   C. Middle
   D. Middle and High
   E. High
   F. Elementary and High
   G. K-12

38. Which of the following sector(s) of education do you serve?
   A. Private
   B. Public
   C. Both

39. What is your current educational level?
   A. Bachelor’s Degree
   B. Master’s Degree
   C. Master’s Degree +30
   D. Doctorate

40. Which of the following best matches your level of educational law training?
   A. None
   B. One college course but no in-service training
   C. In-service training but no college course
   D. Both one college course and in-service training
   E. Two college courses
   F. Three or more college courses
   G. Law Degree

41. How did you receive the link to this survey?
   A. Dr. Jonathan Becker invited me to take it
   B. A colleague of mine invited me to take it
   C. Other or Not sure
Appendix B
Free Speech Knowledge Answers

12. Teachers can be required to swear that they are not subversives and will not teach others to overthrow the government by force or revolution. *False – See* Keyishian v. Board of Regents (1967).


14. A teacher can be fired for belonging to a communist, Nazi, or revolutionary organization. *False – See* Keyishian v. Board of Regents (1967).

15. Teachers can be prohibited from promoting political candidates in the classroom. *True*


17. Based upon a teacher’s personal and religious beliefs, a public school teacher can refuse to teach the prescribed curriculum concerning patriotic matters. *False – See* Palmer v. Board of Education of City of Chicago (1979).

18. Teachers may be legally made to conform to a particular dress code. *True*


20. Teachers can be disciplined for publicly criticizing school policies of community concern. *False – Such speech is protected by the First Amendment.*

21. Teachers have the legal authority to select the texts for their students. *False – School boards have the legal authority to select texts.*

22. Academic freedom generally protects teachers who discuss controversial subjects if they are relevant, appropriate for the age and maturity of the students, and do not cause a disruption. *True – If the comments are balanced, age-appropriate, relevant, and non-disruptive, they are usually protected by academic freedom.*

23. Schools have the right to require supplemental material approval by administrators in advance without violating teachers’ academic freedom. *True*
24. Comments made by a public educator on matters of public concern might not be protected speech if they are made as part of the educator’s official duties. *True – See* Garcetti v. Ceballos *(2006).*
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Vita

Born in Huntington, West Virginia, John David Andrews is an Eagle Scout and a 1994 graduate from Barboursville High School. In 2000, John graduated from Marshall University with a Bachelor of Arts degree in Education with middle school and high school certifications for both English and social studies, and he graduated from the University of Virginia with a Master of Education degree in 2006. John taught for over ten years at the middle school and high school levels before completing a Ph.D. program at Virginia Commonwealth University in 2012. He currently resides in Richmond, Virginia with his wife Kasey and son Mark.