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UNDERSTANDING SOCIAL MEDIA FOR SCHOOL BOARD MEMBERS

The United States Supreme Court made important distinctions about how school board members can use their social media accounts in its recent case *O'Conner-Ratliff v. Garnier*. This case provides some clear guidelines for board members. The key points are:

- School board members have the right to control their personal social media, just like other private citizens.
- If a board member is acting in their official capacity and claiming to speak for the district, their social media becomes a "public forum."
- In a public forum, the board member cannot block or hide comments they disagree with -- that would violate free speech rights.

To determine if a board member's social media is a public forum, the court laid out a two-part test:

1. Does the board member have actual authority to speak on behalf of the district?
2. Is the board member purporting to exercise that authority in their social media posts?

If both of these are true, the social media is considered a public forum and the board member has limited ability to control the content. To avoid this, the court suggested that board members include a clear disclaimer on their personal social media. Recommended language is:

"This is my personal social media account. I am not speaking on behalf of the school district or its board."

This disclaimer creates a "heavy presumption" that the board member is acting as a private citizen, not an official representative of the district.

This Supreme Court case has important implications for superintendents and other district leaders as well. Since they do have official authority to speak for the district, most of their social media would likely be considered a public forum.

To ensure that everyone understands these rules, we recommend:

- Engaging with Schools Legal Service to provide governance training for board members, superintendents, and other key staff.
- Reviewing and updating board policies to clarify expectations about social media use.
- Having all board members include clear disclaimers on their personal social media.

Please don't hesitate to contact the SLS team if you have other questions about navigating social media as a school official.

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