

**ALSB JOURNAL OF BUSINESS LAW & ETHICS PEDAGOGY**  
**VOLUME 3; ISSUE 1**  
**FALL 2020**

**ABOUT THE ALSB JOURNAL OF BUSINESS LAW & ETHICS PEDAGOGY**

**CONTENT & OPINIONS**

**EDITORIAL BOARD AND STAFF EDITORS**

**FROM THE EDITOR**

*Unprecedented Times: A History of Adapting to Educational Challenges*

**ARTICLES**

**BUSINESS CONTINUITY IN LIGHT OF THE CORONAVIRUS DISRUPTION—A GROUP EXERCISE**

*Nanci K. Carr*

**LAW IN THE TIME OF CORONAVIRUS: HOW AND WHY TO COVER COVID-19 DISRUPTIONS IN A BUSINESS LAW OR LEGAL ENVIRONMENT COURSE**

*Tonia Hap Murphy*

**GETTING OUR HANDS DIRTY: MAKING THE PROBLEM OF DIRTY HANDS WORK FOR US**

*Barry Sharpe*

**THE RIVER OF CASE LAW AND THE ENGAGEMENT RING**

*Nancy J. White*

**SPEAKING THEIR LANGUAGE: ASSIGNING INFOGRAPHICS AND VIDEOS AS “DIGITAL DELIVERABLES” TO TEACH LEGAL ENVIRONMENT OF BUSINESS STUDENTS ABOUT SOCIAL MEDIA POLICY**

*Susan L. Willey and Cheryl Black*

## **ABOUT THE ALSB JOURNAL OF BUSINESS LAW & ETHICS PEDAGOGY**

The *ALSB Journal of Business Law & Ethics Pedagogy* (JBLEP) is published by the Academy of Legal Studies in Business. The objective of this double-blind, peer-reviewed journal is to offer faculty another outlet that archives the excellent research and teaching ideas of our members and other faculty, as well as to provide publishing and service opportunities.

The *ALSB Journal of Business Law & Ethics Pedagogy* is dedicated to disseminating business law and ethics pedagogical research and ideas in an online, open-access format. JBLEP welcomes contributors to share their research and innovations in business law and ethics teaching, student learning, and classroom experiences in scholarly articles.

Unless otherwise indicated, the copyright of accepted submissions to the *ALSB Journal of Business Law and Ethics Pedagogy* is retained by the Author(s), although the article cannot be published in other journals or similar formats. Authors of articles appearing in JBLEP grant to the journal a short-term exclusive license to publish, reproduce and distribute the work.

For additional information, visit our online presence at <https://www.jblep.com/>

This journal does not charge fees for submission or publication of articles. Users have the right to read, download, copy, distribute, print, search, or link to the full texts of articles in the Journal. For this Volume 3, Issue 1 (Fall 2020) edition of the journal, we have separated each article into an individual PDF document to facilitate downloading.

## **CONTENT & OPINIONS**

The opinions expressed in the articles are solely those of their respective authors and do not reflect the opinions of the *ALSB Journal of Business Law & Ethics Pedagogy* itself, the Academy of Legal Studies in Business, the officers, editors and reviewers, or any named college or university. This publication is designed to give accurate and authoritative information with regard to the subject matter. It is distributed with the understanding that neither the publisher nor the editors are engaged in the rendering of legal advice, political opinion, or any other professional service. If legal advice or other expert assistance is required, please seek the services of a competent professional.

## **EDITORIAL BOARD AND STAFF EDITORS (2020-2021)**

### **EDITOR-IN-CHIEF**

**CHRISTINE LADWIG, PH.D., J.D., LL.M., M.ACC.**  
SOUTHEAST MISSOURI STATE UNIVERSITY

### **MANAGING EDITOR**

**AMY KLEMM VERBOS, PH.D., J.D., M.P.A.**  
UNIVERSITY OF WISCONSIN-WHITEWATER

### **ARTICLES EDITORS**

#### **MARTY LUDLUM, J.D.**

UNIVERSITY OF CENTRAL OKLAHOMA

#### **ANTHONY McMULLEN, J.D.**

UNIVERSITY OF NORTH CENTRAL ARKANSAS

#### **URSULA RAMSEY, J.D.**

UNIVERSITY OF NORTH CAROLINA WILMINGTON

### **TECHNICAL EDITORS**

#### **CHERYL KIRSCHNER, J.D.**

BABSON COLLEGE

#### **TANYA MARCUM, J.D.**

BRADLEY UNIVERSITY

#### **CARMELLA PARKER, J.D., M.B.A.**

NORTHWESTERN STATE UNIVERSITY

### **ADVISORY EDITORS**

#### **LINDA CHRISTIANSEN, J.D., M.B.A., CPA**

INDIANA UNIVERSITY SOUTHEAST

#### **ELIZABETH CAMERON, J.D., M.B.A.**

ALMA COLLEGE

#### **DIANE MAY, J.D.**

WINONA STATE UNIVERSITY

## FROM THE EDITOR

### **Unprecedented Times: A History of Adapting to Educational Challenges**

*The new semester had barely begun as a highly virulent viral infection created havoc on college campuses everywhere, spurring mitigation efforts. Some institutions closed completely; others halved class sizes and quarantined symptomatic students. Public gatherings were prohibited and athletic competitions cancelled. Movie theaters, bowling alleys, and churches shuttered; restaurants limited indoor dining. Students were advised to avoid groups and refrain from class attendance if feeling ill. Masks and social distancing were ordered by health authorities, and travel restrictions between city centers established and enforced.*

Although descriptions in the preceding paragraph aptly align with our experience of the continuing COVID-19 pandemic, the events are actually derived from 102-year-old historical accounts by college students, faculty, and administrators during the 1918 influenza pandemic. The similarities are concurrently remarkable and unremarkable as individuals globally sought to contend with—and adapt to—the unimaginable crisis of their respective time.

Historical similarities also suggest that the learning environment of both 1918 and 2020 was characterized by the ability to adjust, to reinvent, and to innovate. Smaller indoor class sizes, outdoor field trips and open-air classrooms, journaling, hybrid instruction (by phone in 1918 or by computer in 2020)—these are some of the learning-within-a-pandemic creations that are evident in both periods. Although higher education students, faculty and administrators of these 20<sup>th</sup> and 21<sup>st</sup> century crises are separated by a hundred years of change, examples of pandemic college learning shows that the mixing of innovative traditional and non-traditional learning tools and modes is virtually timeless.

Among the many lessons of the current crisis is knowledge that there is an element to learning that transcends method, approach, or venue, and the authors of this Volume 3 Issue 1 deftly capture this essence in their work. This issue of the *Journal of Business Law & Ethics Pedagogy* provides classroom ideas and resources for teaching that are innovative and simultaneously malleable to the multiple learning platforms many of us have recently adopted. Some of the exercises and concepts found in these articles are inspired by the current crisis; all will provide students with enhanced ability to make connections between their studies, business operations, and the world in which they live and work.

In *Business Continuity in Light of Coronavirus Disruption—A Group Exercise*, author Nanci Carr shows how crisis can create opportunity—even in the classroom—through a study of business disruption. This practical exercise focuses on allowing hospital-based employees to begin working remotely, and examines the requisite logistical and legal issues associated with such a transition. Covering a variety of topics, such as consent, liability, and HIPAA regulations, Professor Carr's lesson helps students make a vivid direct correlation between the COVID-19 crisis and its impact on business operations.

Author Tonia Hap Murphy has developed a valuable compendium of resources and their application in her article *Law in the Time of Coronavirus: How and Why to Cover COVID-19 Disruptions in a Business Law or Legal Environment Course*. Including a virtual textbook range of business law topics, Professor Murphy presents engaging and immersive examples that capture the “silver lining” of our current crisis—understanding a connection between real world current challenges and the lessons we take with us from these issues to apply in the future.

In the essay *Getting Our Hands Dirty: Making the Problem of Dirty Hands Work for Us*, author Barry Sharpe suggests using the concept of dirty hands to introduce students to some of the more complex aspects of ethical thinking. Because the idea that an action may be both justified and wrong is difficult to reconcile, Professor Sharpe believes that the paradoxical nature of dirty hands is a useful framework to reconsider ethical theories and their often hasty, “cookie-cutter” application. Student encounters with messy moral landscapes helps to broaden their ethical toolbox for challenges and more thoughtful decision-making in both life and work.

Using the analogy of a flowing river, author Nancy White illustrates how cases and law move through the court system in *The River of Case Law and the Engagement Ring*. Including a short lecture (<4 mins.) and a well-organized exercise (with teaching notes), Professor White provides students with an opportunity to understand the complexities of how cases are decided and how precedents are created and applied. Focusing on the law of the “engagement ring” and other gifts given in contemplation of marriage, *The River of Case Law* is an engaging (pun intended) look at the consistency and structure of our legal system.

Authors Susan Willey and Cheryl Black present a practical, multifaceted project in their article *Speaking Their Language: Assigning Infographics and Videos as “Digital Deliverables” to Teach Legal Environment of Business Students About Social Media Policy*. In this highly engaging exercise, students are asked to analyze a corporate media policy, create an infographic and training film, and apply the policy to various workplace scenarios. Drawing on Generation Z’s affinity for social media, the importance of digital deliverables, and the need for projects that align with many learning platforms, Professors Willey and Black have created a versatile lesson that combines knowledge and technical skills in a unique and innovative way.

\* \* \*

Christine Ladwig  
EDITOR-IN-CHIEF

# Speaking Their Language: Assigning Infographics and Videos as “Digital Deliverables” to Teach Legal Environment of Business Students about Social Media Policy

*Susan L. Willey\** and *Cheryl Black\*\**

## ABSTRACT

This article describes an innovative, engaging and versatile social media project that can be completed in a traditional, hybrid, or online format. The project requires students to analyze a corporate social media policy, summarize its key provisions in an infographic, create a “training” video that depicts an employee confronting a social media issue, and determine whether employees have violated the company policy in two scenarios. The project builds on the preferences of our tech savvy Generation Z students for audio and video learning and problem-based learning activities by providing them the opportunity to create and share “digital deliverables” that demonstrate what they have learned.

**KEY WORDS:** SOCIAL MEDIA POLICY, DIGITAL LITERACY ASSIGNMENTS, PROTECTED WORKER SPEECH, GENERATION Z LEARNING PREFERENCES

## I. Introduction

Social media platforms like Facebook, Twitter and Instagram provide instantaneous and direct communication between individuals and their friends and family; between schools and their students, parents, and donors; and between companies and their current and potential customers, as well as employees, vendors, and the media. Facebook, launched in 2004, now has more than 2.45 billion users, Instagram (purchased by Facebook in 2012) has 1 billion active users and Twitter, which went live in 2006, has 145 million users.<sup>1</sup>

Companies use these social media platforms to market their products and promote brand awareness to the global marketplace. As company representatives, employees post product information and videos, conduct surveys, solicit consumer reviews and respond to consumer inquiries and concerns. Employees also use social media to post personal content and interact with other social media users. To ensure that employees utilize these platforms appropriately, companies develop social media policies.

---

\* Clinical Professor of Legal Studies, J. Mack Robinson College of Business, Georgia State University.

\*\* Adjunct Faculty, Virginia Commonwealth University School of Business.

<sup>1</sup> Kit Smith, *126 Amazing Social Media Statistics and Facts*, BRANDWATCH (Dec. 30, 2019), <https://www.brandwatch.com/blog/amazing-social-media-statistics-and-facts/>. An estimated 89% of Fortune 500 companies use Facebook, 91% use Twitter, and 63% use Instagram, according to a blog post on Unbox Social, developers of a social media analytics and marketing tool. *How Fortune 500 Companies leverage Social Media to Grow their Business* (Oct. 21, 2019), <https://www.unboxsocial.com/blog/fortune-500-companies-leveraging-social-media/>.

Social media sites offer many benefits, but also pose threats. In 2009, Proofpoint, a California-based cybersecurity and compliance company, conducted a survey of 261 IT “decision-makers” in companies with 1000 or more employees and found that 20% of the companies reported investigations in “the exposure of confidential, sensitive or private information” posted on social media.<sup>2</sup> Of those, 8% reported that they had terminated an employee for violating the company’s social media policy, while an additional 20% had disciplined an employee for not complying with company policy on the use of social networking platforms that could result in the “exposure of confidential, sensitive, or private information.”<sup>3</sup> A little more than half of respondents named Facebook and LinkedIn as the platforms of greatest concern for the disclosure of confidential information.<sup>4</sup>

Many companies conduct searches of the social media activity of job candidates and continue to monitor the social media use of those hired. A recent survey revealed that companies have declined to hire candidates whose social media content contains inappropriate or provocative posts, shows drug or alcohol use or indicates criminal behavior, demonstrates poor communication skills, or contains misleading or false information about the candidate’s qualifications.<sup>5</sup> The survey also reported that companies discharge or reprimand workers based on their online content<sup>6</sup> for similar reasons.<sup>7</sup>

Negative and inappropriate social media posts by employees can harm the company’s brand. Warren Buffett, CEO of Berkshire Hathaway, frequently says, “It takes 20 years to build a reputation and five minutes to ruin it,”<sup>8</sup> particularly when comments and videos posted on social media sites can quickly go viral. Companies cannot control what disgruntled consumers post about companies and their products on their personal accounts, but they can discipline or discharge employees who violate the company’s social media policy, breach a confidentiality agreement, reveal trade secrets or customer information, post negative comments about clients, or use the company’s social media accounts in other ways that harm the company’s reputation.<sup>9</sup> Employee posts that complain about pay, working conditions, a discriminatory or hostile work environment, supervisors, or that express general dissatisfaction, however, may be protected under the National Labor Relations Act (NLRA) as “concerted activity” if the complaints are part of “an ongoing dialogue between that employee and co-workers.”<sup>10</sup>

---

<sup>2</sup> Joan Goodchild, *Fear of Data Loss, Social Media Security Risks Rising*, CIO (Sept. 20, 2010), <https://www.cio.com/article/2415018/fear-of-data-loss--social-media-security-risks-rising.html>. See also Adam Ostrow, *Facebook Fired: 8% of US Companies Have Sacked Social Media Miscreants*, MASHABLE (Aug. 10, 2009), <https://mashable.com/2009/08/10/social-media-misuse/> (reporting an 8% increase from 4% the previous year).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Gretel Egan, *Social Media Influences Decision-Making of Employers, Colleges*, PROOFPOINT (Aug. 15, 2018), <https://www.proofpoint.com/us/security-awareness/post/social-media-influences-decision-making-employers-colleges>. Proofpoint reported the results of a CareerBuilder survey of more than 1,000 HR professionals and hiring managers on their use of social media during the hiring process. *Id.* Seventy percent of respondents acknowledged searching the social media platforms of job applicants, with 57% deciding not to hire an applicant based on the candidate’s social media content. *Id.*

<sup>6</sup> *Id.* Nearly half of the respondents continued to monitor social media profiles of current workers, with 34% acknowledging that they had discharged or reprimanded workers for their online content. *Id.*

<sup>7</sup> See, e.g., June Bell, *Firing for Online Behavior*, SHRM (Aug. 24, 2018), <https://www.shrm.org/hr-today/news/hr-magazine/0918/pages/firing-for-online-behavior.aspx>; see also Lily Herman, *Yes, You Can Get Fired for Your Social Media Posts: 9 Times People Learned This Lesson the Hard Way*, THE MUSE, <https://www.themuse.com/advice/yes-you-can-get-fired-for-your-social-media-posts-9-times-people-learned-this-lesson-the-hard-way> (last visited Sept. 1, 2019); see also Alison Doyle, *You Can Get Fired for What You Post Online*, THE BALANCE CAREERS, <https://www.thebalancecareers.com/posting-information-online-can-get-you-fired-2062154> (last updated June 17, 2019); see also *Can You Get Fired for What You Post on Social Media?*, HG.ORG, <https://www.hg.org/legal-articles/can-you-get-fired-for-what-you-post-on-social-media-37948> (last visited Sept. 1, 2019) (for examples of racist memes, Islamophobic posts, hate speech, insensitive attempts at humor, and posts depicting partying lifestyles, drug and alcohol use, or time at the beach when the employee had called in sick).

<sup>8</sup> James Berman, *The Three Essential Warren Buffett Quotes to Live By*, FORBES (Apr. 20, 2014), <https://www.forbes.com/sites/jamesberman/2014/04/20/the-three-essential-warren-buffett-quotes-to-live-by/#549880156543>.

<sup>9</sup> *Can You Get Fired for What You Post on Social Media?* *supra* note 7.

<sup>10</sup> *Id.*; Bell, *supra* note 7; Sara Jodka, *Five Common Employer Social Media Mistakes and How to Avoid Them*, DICKINSON WRIGHT (Feb. 5, 2018), <http://hr.dickinson-wright.com/2018/02/05/five-common-employer-social-media-mistakes-and-how-to-avoid-them/>.

Through a series of assignments described in this article, students examine a company's social media policy. In small teams, they create both an explanatory infographic that summarizes the policy and a "training video" depicting a scenario in which an employee either violates the policy or seeks compliance guidance. As a culminating in-class exercise, the teams apply their company's policy to two scenarios to determine whether the employee's social media conduct violates the policy. Part II of the article examines the rationale for the "digital deliverables" the teams create and identifies the learning objectives of the Social Media Project. Part III provides a limited, but necessary, discussion of NLRA protections for worker speech deemed concerted activity, the role of the National Labor Relations Board (NLRB) in the development of social media policies so that instructors will be able to use the project more effectively in their classes. Part III also briefly outlines the primary components of an effective social media policy that complies with the NLRB guidelines. Part IV describes the Social Media Project and the ways that it can be adapted for use in a variety of legal studies courses. Finally, Part V discusses the benefits of the project and offers the conclusions of the authors.

## II. The Social Media Project: Rationale and Learning Objectives

### A. Rationale for Assigning "Digital Deliverables"

Central to the 2013 Accreditation Standards of the Association for the Advancement of Collegiate Schools of Business (AACSB) are engagement, innovation, and impact. In the Social Media Project, we created an innovative "digital literacy" component that today's college students find engaging and responsive to their learning preferences, as discussed below.

#### 1. The Georgia State University Digital Literacy Initiative

As defined by the American Library Association, digital literacy includes the "the ability to use information and communication technologies to find, evaluate, create and communicate information, requiring both cognitive and technical skills."<sup>11</sup> This definition presumes that digitally literate individuals know how to use digital tools in communicative, collaborative ways.<sup>12</sup> Digital literacy is multifaceted; Spires categorizes digital literacy skills into three distinct areas: "locating and consuming digital content; creating digital content; and communicating digital content."<sup>13</sup> Others emphasize that it is important to teach students how, why and when digital tools are used in various workplace environments, including professional and academic settings.<sup>14</sup>

---

<sup>11</sup> Report of the Office for Information Technology Policy's Digital Literacy Task Force, *Digital Literacy, Libraries, and Public Policy*, AMERICAN LIBRARY ASSOCIATION (Jan. 2013), [https://districtdispatch.org/wp-content/uploads/2013/01/2012\\_OITP\\_digilitreport\\_1\\_22\\_13.pdf](https://districtdispatch.org/wp-content/uploads/2013/01/2012_OITP_digilitreport_1_22_13.pdf). See Henry Jenkins et al., *Confronting the Challenges of Participatory Culture: Media Education for the 21<sup>st</sup> Century*, MACARTHUR FOUNDATION (2009), [https://www.macfound.org/media/article\\_pdfs/JENKINS\\_WHITE\\_PAPER.PDF](https://www.macfound.org/media/article_pdfs/JENKINS_WHITE_PAPER.PDF). Jenkins notes that digital literacy builds upon traditional literacy skills but requires different tools across multiple modalities to utilize these skills on computers and mobile devices. *Id.*; see also *What is Digital Literacy and Why Does it Matter*, RENAISSANCE, <https://www.renaissance.com/2019/02/08/blog-digital-literacy-why-does-it-matter/> (last visited June 4, 2019); Matthew Lynch, *What is Digital Literacy*, THE TECH ADVOCATE, <https://www.thetechadvocate.org/what-is-digital-literacy/> (Oct. 23, 2017) (stressing the importance of evaluating online information, as well as creating and sharing online content); Jacqui Murray, *Technology in the Classroom: What is Digital Literacy?*, TEACHHUB.COM (Oct. 1, 2015), <http://www.teachhub.com/technology-classroom-what-digital-literacy> (explores collaboratively creating, communicating and sharing documents and digital artifacts virtually). See also Laura Pasquini, *4 Things to Consider When Teaching Digital Literacy to College Students*, EDTECH (May 26, 2017) at <https://edtechmagazine.com/higher/article/2017/05/4-things-consider-when-teaching-digital-literacy-college-students>. Pasquini considers the challenges of teaching college students to critically challenge the accuracy of online content, not simply the ease in locating it, as well as the importance of making students aware of the security and privacy of data posted online. *Id.*; see also Joel Breakstone, Sarah McGrew, Mark Smith, Teresa Ortega & Sam Wineburg, *Why We Need a New Approach to Teaching Digital Literacy*, PHI DELTA KAPPAN (Mar. 8, 2018), <https://www.kappanonline.org/breakstone-need-new-approach-teaching-digital-literacy/> (finding that the ability to distinguish between accurate and "fake news" is at the heart of why there needs to be a new approach to teaching digital literacy).

<sup>12</sup> *Digital Literacy*, ALA'S LITERACY CLEARINGHOUSE, <https://literacy.ala.org/digital-literacy/> (last visited Sept. 1, 2019).

<sup>13</sup> Hiller Spires & Melissa Bartlett, *Digital Literacies and Learning: Designing a Path Forward*, NORTH CAROLINA ST. U. FRIDAY INSTITUTE (June 2012), <https://www.fi.ncsu.edu/wp-content/uploads/2013/05/digital-literacies-and-learning.pdf>.

<sup>14</sup> B. Alexander, S. Adams Becker, & M Cummins, *Digital Literacy: An NMC Horizon Project Strategic Brief, Volume 3.3*, THE NEW MEDIA CONSORTIUM (Oct. 2016), <http://cdn.nmc.org/media/2016-nmc-horizon-strategic-brief-digital-literacy.pdf>. The report notes the importance of

Georgia State University (GSU) launched a Digital Literacy Initiative in 2013 to encourage faculty to incorporate various “digital competencies” into course activities within the university’s core curriculum.<sup>15</sup> Working with Phil Ventimiglia, the university’s Chief Information Officer, the GSU Honors College agreed to “serve as an incubator for pedagogical innovation” by asking faculty teaching Honors courses to “intentionally integrate digital literacy skills” into their classes.<sup>16</sup> Embracing this initiative, one author assigns various digital projects in both a one-credit freshman honors seminar and in the Legal and Ethical Environment of Business honors section. In addition to the infographics and videos assigned as part of the Social Media Project that will be discussed in depth in Part IV of this article, other projects require teams of students to create and share digital timelines and online interactive exercises using Google Forms and Google Docs.

## **2. Characteristics and Learning Preferences of Generation Z**

Individuals born in the United States between 1996 and 2012 are typically referred to as Generation Z, iGen, or the Post-Millennial Generation.<sup>17</sup> Most of today’s college students fall into this racially and ethnically diverse cohort,<sup>18</sup> and the Pew Research Center found that these Post-Millennials are also enrolling in college at a higher rate than Millennials (their predecessor cohort) at a comparable age.<sup>19</sup>

These Generation Z college students are also avid users of social media. The Pew Research Center estimated that, in 2018, 88% of Americans between 18 and 29 years of age used some form of social media, with Snapchat, Twitter and Instagram preferred by individuals between 18 and 24.<sup>20</sup> Pew also reported that 81% of these younger Snapchat and Instagram users accessed these platforms daily, with 71% using Snapchat and 55% using Instagram multiple times every day.<sup>21</sup> Nearly half of the 18-24 year-old cohort (44%) also used Twitter. In surveying their YouTube use, Pew found that 94% of this age cohort also used the video-sharing website, compared to roughly 75% of American adults.<sup>22</sup>

Numerous articles describe the characteristics and learning styles of this generation, as well as the challenges faculty face in engaging and teaching these students when they enter college. Sometimes referred

---

building partnerships between business, industry and educational institutions “to better understand ever-changing workforce demands for digital literacy.” *Id.* at 12. Compare B. Alexander, S. Adams Becker, M. Cummins, & C. Hall Giesinger, *Digital Literacy in Higher Education, Part II: An NMC Horizon Project Strategic Brief*, Volume 3.4, THE NEW MEDIA CONSORTIUM (Aug. 2017). In the 2017 follow-up report, NMC compares digital literacy dimensions (e.g., communication, technology skills, creation of content, and critical thinking) across multiple frameworks, describes certain programs as exemplars and includes short commentaries on topics like the ways in which digital literacy initiatives change technology or creation of digital content by faculty and students as collaborators as “voices from the field.” *Id.* Ultimately, this report concludes that the definition of digital literacy will continue to develop and evolve as new practices and digital tools emerge. *Id.*

<sup>15</sup> Phil Ventimiglia & Tiffany Green-Abdullah, *Future Of Work, Technology And Education: Digital Literacy at Georgia State*, GEORGIA STATE UNIVERSITY (Nov. 14, 2018), <https://news.gsu.edu/2018/11/14/digital-literacy/>.

<sup>16</sup> Jacob English, *A Digital Literacy Initiative in Honors: Perceptions of Students and Instructors About its Impact on Learning and Pedagogy*, J. OF THE NAT’L COLLEGIATE HONORS COUNCIL 125 (2016), <http://digitalcommons.unl.edu/nhcjournal/533>.

<sup>17</sup> Richard Fry & Kim Parker, *Early Benchmarks Show ‘Post-Millennials’ on Track to Be Most Diverse, Best-Educated Generation Yet*, PEW RES. CTR (Nov. 15, 2018), <https://www.pewsocialtrends.org/2018/11/15/early-benchmarks-show-post-millennials-on-track-to-be-most-diverse-best-educated-generation-yet/>. *But see* Deep Patel, *8 Ways Generation Z Will Differ From Millennials In The Workplace*, FORBES (Sept. 21, 2017, 11:52 AM), <https://www.forbes.com/sites/deeppatel/2017/09/21/8-ways-generation-z-will-differ-from-millennials-in-the-workplace/#67c732d76e5e> (defining generation Z as those born between 1995 and 2010); *see* Steve Robertson, *Generation Z Characteristics & Traits That Explain the Way They Learn*, JULIAN KRINSKY CAMPS AND PROGRAMS, (July 25, 2018, 1:52 PM), <https://info.jkcp.com/blog/generation-z-characteristics> (holding that others define Generation Z as born between 1996 and 2014).

<sup>18</sup> Fry & Parker, *supra* note 17. Pew reports that as of 2017, 52% of Americans in this age cohort are non-Hispanic whites and are less likely to be foreign born, compared to 61% of Millennials (born from 1981 to 1996), in 2002.

<sup>19</sup> *Id.* In comparing Post-Millennials with Millennials when they were 18-20 years old, the Pew Report found that 80% of 18-20 year old Post-Millennials had completed high school as of 2017 (compared to 76% of Millennials in 2002) and 59% of those no longer in high school in 2017 had enrolled in college (compared to 53% of Millennials in 2002), with fewer entering the labor force to work full-time.

<sup>20</sup> Aaron Smith & Monica Anderson, *Social Media Use in 2018*, PEW RESEARCH CENTER (Mar. 1, 2018), <https://www.pewinternet.org/2018/03/01/social-media-use-in-2018/>.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

to as “digital natives,” Generation Z grew up with the internet, smartphones, text messages and social media as a daily part of their lives. An Ernst and Young study found that 91% of teens in 2016 had access to a smart phone and 90% watched YouTube daily.<sup>23</sup> With technology so embedded into their lives, Generation Z is constantly connected, expects communication to be instantaneous and views multitasking as a way of life.<sup>24</sup> Some suggest that Generation Z is motivated by a desire for security, having experienced terrorism and 9/11, the recession of 2008 and the financial instability it caused their households, school shootings, and an increasingly complex and uncertain world.<sup>25</sup> As a result, they are viewed as self-reliant, entrepreneurial, and career-driven.<sup>26</sup> They prefer to learn “by doing,” rather than listening to lectures.<sup>27</sup>

These experiences and characteristics also affect the learning preferences of Generation Z, who expect that various digital learning tools are integrated into their educational experience.<sup>28</sup> Many are visual learners, with 59% of respondents between 14 and 23 years old reporting in a recent survey that they preferred learning from YouTube videos available on demand and that can be paused to allow the viewer to process content, compared to reading books.<sup>29</sup> As technology natives, Generation Z students want personalized learning, including videos, to learn required content.<sup>30</sup> One post on an IT blog suggests that students be encouraged to create their own videos as a step toward learning information literacy skills, specifically how to determine the accuracy and credibility of information available on the internet.<sup>31</sup>

Faculty can determine the learning preferences of their Generation Z students by administering short surveys, such as VARK, which attempts to determine student preferences for Visual, Aural, Read/Write and Kinesthetic modalities.<sup>32</sup> The VARK definition of each modality is not self-evident. Visual refers to information transmitted through maps, diagrams, flow charts and other symbolic representations, but not videos. As this website explains, “graphic” might be a better label for this category, as it does not include photographs, videos or even PowerPoint. Aural describes the preference for spoken or heard information, while Read/Write indicates a preference for information conveyed through words, including PowerPoint, general text and websites that convey information through text. Kinesthetic refers to learning through “real” experience,

---

<sup>23</sup> Dana Schwieger & Christine Ladwig, *Reaching and Retaining the Next Generation: Adapting to the Expectations of Gen Z in the Classroom*, 16 INFO. SYSTEMS EDUC. J. 45-6 (June 2018), <https://files.eric.ed.gov/fulltext/EJ1179303.pdf> (summarizing studies on Generation Z). *See also* Robertson, *supra* note 17 (claiming that Generation Z is “addicted” to social media).

<sup>24</sup> *See, e.g.*, Patel, *supra* note 17; Robertson, *supra* note 17. According to Robertson, multitasking comes naturally to Generation Z students, who are less focused than Millennials and have short attention spans of about 8 seconds. *Id.* *See also* Vickie Cook, *Engaging Generation Z Students*, U. OF ILLINOIS SPRINGFIELD, [https://sites.google.com/a/uis.edu/colrs\\_cook/home/engaging-generation-z-students](https://sites.google.com/a/uis.edu/colrs_cook/home/engaging-generation-z-students) (last visited Sept. 1, 2019) (noting one reason for Generation Z students’ short attention spans is that 11% have been diagnosed with Attention-Deficit Hyperactivity Disorder (ADHD)).

<sup>25</sup> Patel, *supra* note 17; Cook, *supra* note 24.

<sup>26</sup> Sieva Kozinsky, *How Generation Z is Shaping the Change in Education*, FORBES (July 24, 2017, 5:18 PM), <https://www.forbes.com/sites/sievakozinsky/2017/07/24/how-generation-z-is-shaping-the-change-in-education/>. Kozinsky reports that 13% of these “self-reliant” members of Generation Z have already established their own businesses. Schwieger and Ladwig, *supra* note 23 (acknowledging this entrepreneurial interest reflects Generation Z’s independence and comfort in finding information on their own). *But see* Patel, *supra* note 17 (finding that Generation Z prefers to work on their own).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Lauraine Genota, *Why Generation Z Learners Prefer YouTube Lessons Over Printed Books*, EDUCATION WEEK (Sept. 11, 2018), <https://www.edweek.org/ew/articles/2018/09/12/why-generation-z-learners-prefer-youtube-lessons.html>. *See* Robertson, *supra* note 17 (noting that students in this generation prefer learning information in a visual format); *see also* Cook, *supra* note 24.

<sup>30</sup> Dave Doucette, *Meeting the Educational Demands of Generation Z*, ED TECH (Oct. 25, 2019), <https://edtechmagazine.com/higher/article/2018/10/meeting-educational-demands-generation-z>.

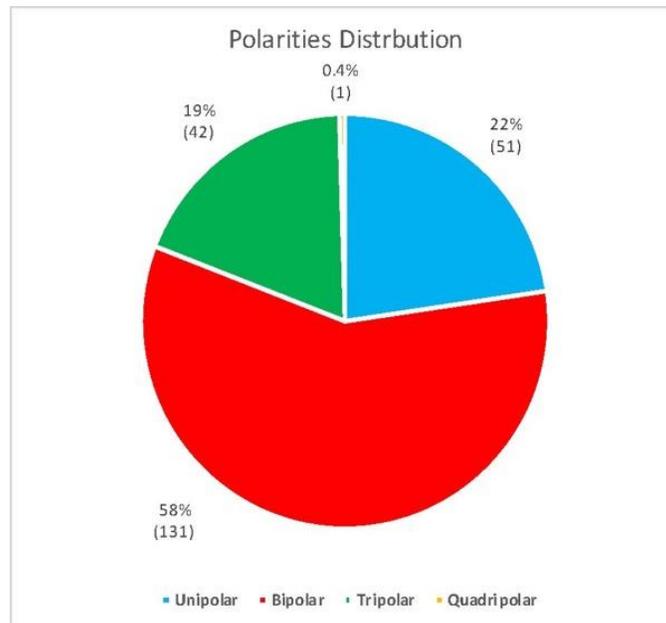
<sup>31</sup> *Id.* *Compare* Kozinsky, *supra* note 26 (suggesting that Generation Z students prefer to be more engaged in the learning process), *with* Cook, *supra* note 24 (believing that these students want to “co-create, live stream and help. . . make up the activity as they participate” and noting that Generation Z likes to communicate with visual symbols such images and icons).

<sup>32</sup> *The VARK Modalities*, VARK, <http://vark-learn.com/introduction-to-vark/the-vark-modalities/> (last visited June 7, 2018).

whether actual or simulated, and thus includes demonstrations, case studies, application problems, “videos and movies of ‘real’ things.”<sup>33</sup>

One author administered the VARK 7.8 Questionnaire to 225 students in her Legal Environment of Business course in 2018 and then scored them using the VARK Questionnaire Scoring Chart.<sup>34</sup> Although most of the 225 students surveyed exhibited multiple learning styles, many showed a dominant style preference: 69.8% preferred kinesthetic learning, 52.3% aural, 37.8% visual, and 35.6% reading and writing. Only 22% of the students showed a clear preference for a single modality, with 58% showing a preference for two modalities, as depicted in Table 1.

**Table 1: Distribution of Modalities**



Consistent with these Generation Z learning preferences for videos and real-life experiences, we designed the Social Media Project as a Human Resources simulation that allowed them to create digital artifacts in visual and video formats, as will be described more fully in Part IV of the article.

## ***B. Learning Objectives***

In designing this project, we were guided by the skills identified by business and others to ensure students are ready for a career, as noted in the 2013 AACSB Eligibility Procedures and Accreditation Standards<sup>35</sup> and Bloom’s Taxonomy.<sup>36</sup>

---

<sup>33</sup> *Id.*

<sup>34</sup> *The VARK Questionnaire (Version 8.01): How Do I Learn Best?* VARK, <http://vark-learn.com/wp-content/uploads/2014/08/The-VARK-Questionnaire.pdf> (last visited June 7, 2018).

<sup>35</sup> 2013 *Eligibility Procedures and Accreditation Standards for Business Accreditation*, THE ASS’N TO ADVANCE COLLEGIATE SCHOOLS OF BUS., <https://www.aacsb.edu/-/media/aacsb/docs/accreditation/business/standards-and-tables/2018-business-standards.ashx?la=en&hash=b9af18f3fa0df19b352b605cbce17959e32445d9> (last revised July 1, 2018).

<sup>36</sup> *Bloom’s Taxonomy*, GLOSSARY OF EDUCATION REFORM, <https://www.edglossary.org/blooms-taxonomy/> (last updated Mar. 5, 2014). Bloom led a team of cognitive psychologists who developed and published a taxonomy that classified cognition into six levels from knowledge to evaluation. Originally published in 1956, the taxonomy was revised and updated in 2001 by Lorin Anderson and David Krathwohl, renaming three of the categories and converting nouns to verbs. *Id.*, see David Krathwohl, *A Revision of Bloom’s Taxonomy: An Overview*, 41 THEORY

In the Preamble to the AACSB Standards, the association issues a mandate: “business schools must respond to the business world’s changing needs by providing relevant knowledge and skills” that will prepare “students for meaningful professional, societal and personal lives.”<sup>37</sup> In the Learning and Teaching section of the standards, moreover, the AACSB encourages curricula that engages students in active, practical and experiential learning.<sup>38</sup> The Standards then articulate general skills and those related to technological agility that undergraduate degree programs should also include.<sup>39</sup> This article describes a Social Media Project that provides students with an opportunity to practice these skills: effective oral and written communication, analytical thinking, ethical reasoning, effective collaboration with other students in a team environment and the ability to apply knowledge to a simulated “real world” business problem.<sup>40</sup> Business leaders and employers also want students to have these skills by the time they graduate.<sup>41</sup>

Similarly, the project also addresses AACSB expectations that business students show “technology agility,” at least at an introductory level suitable for a freshman-sophomore level course. AACSB specifically defines “technology agility” as the ability to adapt to new technologies rapidly and, after analyzing a business problem, to use appropriate technology to solve that problem. The National Association of Colleges and Employers (NACE), which defines career readiness as “the attainment and demonstration of requisite competencies that broadly prepare college graduates for a successful transition into the workplace,”<sup>42</sup> also identifies the ability to use existing digital technology to complete projects and solve problems<sup>43</sup> as a key competency.

The Social Media Project introduces students to online digital tools that many have not encountered; they then use these tools to create “realistic” training materials for a company to explain its social media policy to employees. It also allows students to move through most of the levels in the Anderson and Krathwohl revision of Bloom’s Taxonomy: from understanding, applying and analyzing their company’s social media policy to evaluating employee conduct in the two scenarios in light of that policy to determine if they are violating that policy.<sup>44</sup> Creating is at the highest level in the revised taxonomy; this project requires freshman and sophomore students to put the policy provisions together in a new and different way. Specific learning objectives related to each project component are discussed in Part IV.

---

INTO PRAC. 4 (2002), <https://www.depauw.edu/files/resources/krathwohl.pdf>; see also Leslie Owen Wilson, *Bloom’s Taxonomy Revisited*, THE SECOND PRINCIPLE, <https://thesecondprinciple.com/teaching-essentials/beyond-bloom-cognitive-taxonomy-revised/> (last updated 2016).

<sup>37</sup> *Id.* at 2.

<sup>38</sup> *Id.* at 32.

<sup>39</sup> *Id.* at 35.

<sup>40</sup> *Id.*

<sup>41</sup> Jeremy Bauer-Wolf, *Public May Not Trust Higher Ed, But Employers Do*, INSIDE HIGHER ED (Aug. 28, 2018), <https://www.insidehighered.com/news/2018/08/28/survey-business-leaders-believe-students-are-learning-skills-not-those-needed> (reporting on a survey of 500 business executives and 500 hiring managers commissioned by the Association of American Colleges & Universities). Hannah DeBevoise, *Top Skills Employers Want and How to Develop Them*, BEST BUS. SCHOOLS (Sept. 4, 2018), <https://bestbizschools.aacsb.edu/blog/2018/september/top-skills-employers-want-and-how-to-develop-them>. Employers seek similar skills from students completing graduate business programs according to a blog post by Hannah DeBevoise, Social Media Coordinator for AACSB International discussing a 2018 Corporate Recruiters Survey sponsored by the Graduate Management Admission Council (GMAC). *Id.* See also, *Top Ten Things Employers Look For in New College Graduates*, ASS’N OF AM. COLLEGES & UNIVERSITIES, <https://www.aacu.org/leap/students/employers-top-ten> (last visited Sept. 1, 2019).

<sup>42</sup> *Career Readiness Defined*, NACE CTR., <https://www.nacweb.org/career-readiness/competencies/career-readiness-defined/> (last visited Sept. 1, 2019). This page also identifies eight competencies; in addition to digital technology, the list includes critical thinking, oral and written communication, teamwork and collaboration, leadership, professionalism and work ethic, career management and global fluency. *Id.*

<sup>43</sup> *Career Readiness Competencies: Employer Survey Results*, NACE CTR., <https://www.nacweb.org/career-readiness/competencies/career-readiness-competencies-employer-survey-results/> (last visited Sept. 1, 2019). The survey, conducted in December 2014, polled more than 600 firms, government agencies, and non-profits that recruit students on university campuses.

<sup>44</sup> Anderson & Krathwohl, *supra* note 36.

### III. Protected Worker Speech

The NLRA guarantees employees protected speech on certain topics.<sup>45</sup> Section 7 of the Act<sup>46</sup> protects the rights of employees to communicate with, to, and on behalf of other employees about job performance,<sup>47</sup> wages, working conditions, disciplinary actions, time and attendance, and safety issues.<sup>48</sup> The Act does not protect employee speech that disparages company employees<sup>49</sup> or discloses an employer's confidential, non-public proprietary, customer or product information.<sup>50</sup> Employers create workplace and handbook rules to establish, among other things, what employees can and cannot communicate. Employer social media policies are workplace rules that govern employees' online communications.

The Act established the NLRB to administer and enforce the provisions of the Act. The NLRB adjudicates cases that involve an employer's discipline of an employee's online activity<sup>51</sup> and complaints that an employer's social media policy violates an employee's Section 7 activities.<sup>52</sup> Employer actions and policies amount to unfair labor practices under Section 8(a)(1) of the Act when they interfere with or restrain employees' Section 7 rights.<sup>53</sup> For example, in *Hispanics United of Buffalo*,<sup>54</sup> the Board ordered the employer to reinstate the five employees it terminated for exchanging Facebook posts.<sup>55</sup> The Board determined that the exchange of social media posts between co-workers about work performance amounted to concerted activity

---

<sup>45</sup> Employee protected speech in the context of this article refers to non-government employee communication for the purpose of engaging in concerted activity which is protected under the NLRA. This article does not cover the broader topic of free speech protections afforded to government employees and all Americans outside of the workplace under the U.S. Constitution and the Bill of Rights. However, we acknowledge that new and emerging technologies, including social media and electronic communications, have made it increasingly difficult to define the workplace and work hours.

<sup>46</sup> Section 7 reads, in its entirety:

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3).

<sup>47</sup> 29 U.S.C.S. § 157. The Board defines "concerted activity" as activity that involves two or more employees or an individual employee "engaged in with or on the authority of other employees, and not solely by and on behalf of the employee himself" and "circumstances where individual employees seek to initiate or to induce or to prepare for group action." *Meyers Indus.*, 268 N.L.R.B. 493, 497 (1983) (*Meyers I*), remanded sub nom. *Prill v. NLRB*, 755 F.2d 941 (D.C. Cir. 1985), cert. denied 474 U.S. 948 (1985), supplemented 281 N.L.R.B. 882, 887 (1986) (*Meyers II*), aff'd. sub nom. *Prill v. NLRB*, 835 F.2d 1481 (D.C. Cir. 1987).

<sup>47</sup> *Praxair Distrib., Inc.*, 357 N.L.R.B. 1048, 1058 (2011).

<sup>48</sup> Jeffrey S. Bosley & Taylor Ball, *Law at the Speed of Dial Up: The Need for a Clear Standard for Employee Use of Employer-Provided Email Systems That Will Withstand Changing Technology*, 13 WASH. J.L. TECH & ARTS 49, 52 (2017).

<sup>49</sup> *Memorandum GC 18-04 Guidance on Handbook Rules Post Boeing*, NAT'L LAB. REL. BOARD 3-4, <https://www.nlr.gov/news-publications/nlr-memoranda/general-counsel-memos> (last visited June 9, 2018).

<sup>50</sup> *Id.* at 9-10.

<sup>51</sup> *Hispanics United of Buffalo, Inc. and Carlos Ortiz.*, 359 N.L.R.B. 368 (2012).

<sup>52</sup> *The NLRB and Social Media*, NAT'L LAB. REL. BOARD, <https://www.nlr.gov/rights-we-protect/rights/nlr-and-social-media> (last visited May 26, 2019).

<sup>53</sup> 29 U.S.C.S. § 158(a)(1). Under Section 8(a)(1) of the Act, an employer engages in unfair labor practices if it "interfere[s] with, restrain[s], or coerce[s] employees in the exercise of the rights guaranteed in Section 7 [of the Act]." *Id.*

<sup>54</sup> 359 N.L.R.B. 368 (2012).

<sup>55</sup> *Id.* at 368, 376-77. The Board affirmed the Administrative Law Judge's decision and adopted the recommended Order in which the Judge demanded that the employer offer to reinstate the employees and make them whole for any loss of earnings and benefits. *Id.*

protected under the NLRA.<sup>56</sup> *Hispanics United of Buffalo* is the first case in which the Board held that non-union employees' social media posts are protected speech under the Act.<sup>57</sup>

The Board also reviews social media policies for violations of employee protected speech. The Board applies its legal standard for evaluating workplace rules to determine if an employer's social media policy is unlawful. The Board's legal standard balances an employee's protected speech with employer business interests and justifications to restrict or prohibit the speech. For example, a social media policy prohibiting employees from sharing non-public company information is unlawful because it is overly broad. Such a policy could prohibit protected speech, such as information about terms and conditions for employment.<sup>58</sup> Conversely, a provision that prohibits employees from posting anything in the name of the employer without the employer's prior written authorization is lawful. According to the Board's guidance on social media policies, employers have significant interest in controlling the company message and who delivers that message.<sup>59</sup>

One of the scenarios students analyze for this project touches upon employee protected speech. Students will gain knowledge of the employee protected speech and its consideration in the social media policy case scenarios described in Part IV.

## IV. The Social Media Policy Project

### A. Introduction

This project grew out of a similar project developed several years ago for the ethics module of an Honors section of our required Legal and Ethical Environment of Business course. To introduce the module, students are given a scenario in which an employee has been asked to buy 28 computers for the financial department of his company. While clarifying computer specifications with one of the vendors he is considering, the vendor suddenly offers the employee a tablet computer as a "free" gift and assures him that none of his competitors will make him such an attractive offer. Students are asked what they would do if they were the employee. Although few students admit they would take the "free" tablet, many are unable to identify or explain the ethical issues raised by the problem; specifically, how the employee's self-interest might conflict with the employer's interests.

As a follow-up to that in-class exercise, small student teams research several topics in an assigned Fortune 500 Company's Code of Conduct for Employees: conflicts of interest; gifts, meals and entertainment; and use of company assets. Student teams identify how employees could seek additional guidance or report a violation and determine if the Code provides employees with a short list of questions that could serve as a "checklist" to consult when confronting an ethical dilemma. In a typical assignment, students would write a short paper explaining what they learned about conflicts of interest and the value of a code of conduct in encouraging employees to respond ethically. This innovative project casts them as employees in a human

---

<sup>56</sup> *Id.* at 369-70.

<sup>57</sup> Ryan Kennedy, *Sharing is Airing: Employee Concerted Activity on Social Media After Hispanics United*, 12 DUKE L. & TECH. REV. 182, 183-84 (2014). The NLRB continues to apply the legal standard established in *Hispanics United Buffalo* in cases that involve employee social media posts related to Section 7 activity. *Desert Cab, Inc. d/b/a ODS Chauffeured Transportation and Paul Lyons*, 367 NLRB No. 87 (February 8, 2019).

<sup>58</sup> See the National Labor Relations Board for examples of memorandums issued by the Office of the General Counsel Division of Operations-Management, including Memorandum OM 11-74 on August 18, 2011, Memorandum OM 12-31 on January 25, 2012, and Memorandum OM 12-59 on May 30, 2012, respectively. *Operations-Management Memos*, NAT'L LAB. REL. BOARD, <https://www.nlr.gov/news-publications/nlr-memoranda/general-counsel-memos> (last visited June 9, 2018). The reports detail investigations and enforcement actions related to employer social media policies under the Board's workplace rule legal standard in the *Lutheran Heritage Village-Livonia* case. 343 N.L.R.B. 646 (2004). *Id.* The Board overturned that standard in a 2017 decision and now reviews social media policies under the standard it adopted in *The Boeing Co. & Soc'y of Prof'l Eng'g Emps. in Aerospace IFPTE Local 2001*, 365 N.L.R.B. No. 154 (2017). *Id.*

<sup>59</sup> See Memorandum from Peter B. Robb, Gen. Counsel, Nat'l Labor Relations Bd. to All Regional Directors, Officers-in-Charge and Resident Officers, Guidance on Handbook Rules Post-Boeing (June 6, 2018), <https://apps.nlr.gov/link/document.aspx/09031d45827f38f1>.

resources department asked to create an infographic and short video as “training materials” that the company could use in employee workshops and seminars to reduce Code violations and the need to discipline employees. Although faculty and students may be familiar with presentation tools such as Microsoft PowerPoint, Prezi, and Google Slides, many may have not created infographics with a tool like Piktochart.<sup>60</sup> Piktochart is a free online tool with a variety of templates to create flyers, posters, presentations, reports, infographics and social media graphics. When assigning this project, instructors may want to invite an instructional designer to demonstrate the technology or require students to watch video tutorials available on the Piktochart website<sup>61</sup> and on YouTube<sup>62</sup> that explain Piktochart features and how to create an effective infographic. Upon completing the project, students report no difficulty in navigating the Piktochart website to create an infographic as a “breakroom poster” for their assigned company.

Students often use Piktochart templates and fonts that allow them to include too much detail in their Infographics, making them unsuitable as a readable, engaging breakroom poster for employees. Instead of asking the students to revise and resubmit these infographics, the instructor assigns a second project with different content to provide students with another opportunity to demonstrate content mastery and creativity using these online tools.

## ***B. The “Digital Deliverables” Component of the Project***

Later in the semester when students in the Honors section are studying the Employment Law module, they are assigned the Social Media Project. Unlike the Code of Conduct assignment, this project starts with a corporation’s social media policy. Students receive a memo from the Human Resources department outlining recent situations in which employees are disciplined for posting inappropriate content on their Facebook pages, Twitter, personal blogs and other social media platforms. These posts include negative comments about co-workers, supervisors and customers; racist articles and videos; and complaints about wages and job duties. The instructor, as an HR Supervisor assigns teams of 3 to create “training materials” to help employees understand the company’s social media policy, identify prohibited (or permitted) conduct, and inform them how to obtain more information if they encounter an issue or situation not covered by the policy.

Student teams create an infographic using Piktochart to summarize key policy provisions in a way that is suitable to post in an employee break room. To supplement this visual policy summary, teams create a short video that depicts a realistic scenario that employees might face, along with a clear explanation of what the employee should do to comply with the company’s social media policy. Unlike the Code project, however, they can use a cell phone to create a live video or an online digital tool like PowToons<sup>63</sup> to create an animated video as their “training” film. In an online class, teams can be assigned to create an animated training video using PowToons or another available digital tool. Full instructions for this component appear in Appendix A.

---

<sup>60</sup> Piktochart provides online templates to create infographics, social media graphics, presentations, reports, flyers and posters. PIKTOCHART, <https://piktochart.com> (last visited Feb. 15, 2020). Students can create a free account, which allows them to create their infographics for the project. *Id.* To assign the required “digital deliverables,” faculty do not need to know how to create infographics or videos using these online tools. *Id.* With minimal guidance from video tutorials and help centers, students seem able to intuitively grasp how to utilize the available features of each tool to create effective infographics and animated videos. *Id.*

<sup>61</sup> *Id.* The Piktochart website provides a demonstration video that introduces users to types of templates, effective use of space, and basic editing tools from its homepage. *Id.* Specific instructions for creating infographics can be found at <https://piktochart.com/formats/infographics/>, which also explains how to download completed infographics as PNG, JPEG, or PDF documents, as well as how to embed or add them to websites, blogs, social media accounts. *Create Beautiful Infographics*, PIKTOCHART (2019), <https://piktochart.com/formats/infographics/>.

<sup>62</sup> Users wanting additional help can find numerous video tutorials on YouTube. *See* Piktochart Video, *Piktochart Tutorial: A Simple Guide to Piktochart for Beginners*, YOUTUBE (Jan. 28, 2017), <https://www.youtube.com/watch?v=Eq-85gzw3GI>; *see also* Tube Techie, *Piktochart Tutorial*, YOUTUBE (Nov. 9, 2018), <https://www.youtube.com/watch?v=jTRxyxDVHuw>.

<sup>63</sup> Like Piktochart, PowToons provides templates for creating marketing, sales and training videos. *Video Template Gallery*, POWTOON, <https://www.powtoon.com/video-templates> (last visited Feb. 15, 2020). It also provides a “Quick Start Guide” with several short video tutorials on how to write a script, add visuals and record an optional voice over narration and a “Help Center” with additional information on using the tool, troubleshooting advice and an open dialogue box for asking questions. *See Powtoon QuickStart Guide*, POWTOON, <https://www.powtoon.com/tutorials/> (last visited Feb. 15, 2020); *see also My Help Center*, POWTOON, <https://support.powtoon.com/en/> (last visited Feb. 15, 2020).

## ***1. Specific Digital Literacy Learning Objectives***

The digital literacy literature identifies specific digital skills and competencies that faculty, undergraduate and graduate students should be able to demonstrate.<sup>64</sup> In designing the digital literacy component of the Social Media Project, we introduce students in a freshman-sophomore level legal environment of business course to several free online tools that they could use to enhance digital skills identified by the report on Digital Literacy in Higher Education, including the ability to

- locate appropriate online tools available at no cost,
- demonstrate their ability to use these online tools in an assigned learning context,
- determine relevant textual material and reorganize it into an accurate, attractive and engaging visual digital format,
- create and share digital artifacts (*e.g.*, the infographic and video for this project) to demonstrate what they learned,
- use a rubric to evaluate digital artifacts created by their peers,
- collaborate online using a variety of digital tools, and
- recognize and value that “thinking as a part of technology use.”<sup>65</sup>

## ***2. Scoring the Deliverables***

The Social Media Project is one of three team projects that require students to submit an assignment created using free, online tools. Collectively, these three “digital” assignments are worth 25% of a student’s course grade, with the social media project worth about 6%.

In grading team infographics and training videos, the instructor uses a scoring rubric that allocates points for content, creativity and the ability to engage the viewer. (See Appendix B.) To evaluate content, the instructor assesses whether teams properly identify the key points of the social media policy that the company would want employees to understand, provide examples of both permitted and prohibited conduct, and indicate where employees could go to seek additional information if they want to make sure that their conduct did not violate the policy. In creating their infographics, teams select a Piktochart template with a suitable layout, determine what font colors and sizes to use, and locate and embed graphics to make the content more engaging, keeping in mind that the company asked them to create an infographic suitable for use as a poster on the wall of an employee breakroom. Instead of focusing on the key elements of their company’s policy, some teams use black or dark blue backgrounds (less readable as a poster) and attempt to include too much detailed information in sections with dense, small, and less readable font, resulting in a lower score on these elements.

Similarly, training videos are scored on both content and creativity. To create either a live action or animated video, students write a script and in the case of a live video and assume the various roles depicted in the 2-3-minute film. In assessing the content of that script, the rubric assigns points for whether the scenario depicted in the film is plausible, raises a social media issue that could be resolved by consulting the policy, shows how the policy applies in this situation, and accurately explains the pertinent provisions of the policy in a way that would be understandable to an employee. To assess creativity, the rubric allocates points for organization and flow of the video and its ability to engage the viewer. As most of the students taking the course are freshman and sophomore business students – and not film majors – the instructor did not expect teams to create “professional” videos using the campus media lab. Although not required, several teams did include a title frame, subtitles throughout the video, credits at the end of the video and/or background music.

Instructors can add a competitive dimension, as well as an incentive for teams to produce their best work, by announcing that the teams submitting the best infographic and the best video, as determined by the class, will receive extra credit. Teams post their infographics and videos on the discussion board of our learning management system so that they are accessible to the class. The day the project is due, the instructor can open a survey in the learning management system, which students individually complete to select the Graphic Design

---

<sup>64</sup> See, *e.g.*, Renee Hobbs et al., *Digital Literacy in Higher Education: A Report*, MEDIA EDUCATION LAB (2017), <https://mediaeducationlab.com/sites/default/files/Digital%20Literacy%20in%20HigherEd%202017%20final.pdf>. This report grew out of a 2017 symposium of 56 faculty recruited from across a variety of disciplines that identified a fairly comprehensive list of digital literacy competencies for faculty, undergraduate and graduate students related to access, skills, practices and attributes.

<sup>65</sup> *Id.* at 10-14.

Award for best infographic and the Oscars Award for best video. Students base their decisions on content, clarity, and creativity, and are guided by the same rubric the instructor uses to evaluate their digital artifacts. Students on each “winning” team receive five points of extra-credit, added on to their project score. Links to sample student videos and two modified student Infographics may be found in Appendix E.

### ***C. Applying the Policy***

We selected policies of five large companies that are available online: Best Buy, General Motors (GM), IBM, Nordstrom and Walmart.<sup>66</sup> Links to each policy are provided in Appendix A. We intentionally selected policies that ranged from shorter, more general policies (e.g., Best Buy at roughly 575 words and Nordstrom at 475 words) to lengthier policies (e.g., GM at nearly 3,400 words and IBM at about 2,775 words) with more detail and specificity, so that we could compare and contrast the amount of guidance they might provide employees about whether posting certain content on social media might be permitted or prohibited conduct under the policy. To do so, we created two fictitious scenarios that students analyzed and discussed on the day their infographics and videos were due, using their assigned social media policy. In an asynchronous online class, of course, this discussion would occur on a discussion board, while in a synchronous online class, the instructor could conduct a “live” discussion using the technology available on the classroom management platform, WebEx, Zoom, or another digital space.

The first scenario, “A Day in the Life of an Aztec Driver,” involves an employee of a dotcom company that provides virtual shopping, web-based cloud services and online streaming to millions of customers. On her first day as a VIP Driver who makes personal deliveries for the company’s most important customers, she records and posts a video on Facebook Live that shows her driving for the company while she explains her position, the hiring process and the training she received to become a VIP Driver. Although she stops recording when she approaches a customer’s home or business, she does not disable her Facebook tracking. At the end of the video, she invites viewers to return the next day to learn more about her experience as an Aztec employee.

An employee of a car manufacturer posted a video on YouTube of five assembly workers talking in the break room in the second scenario, “A Break Room Chat Goes Viral.” During their conversation, one worker complains about the long hours required to meet the new car launch date, while another questions the feasibility of the target deadline after the company promised 25,000 self-driving cars in 25 months without expanding operations. Others question whether there will be enough time to conduct adequate safety tests, before they realize that one person in the group has not entered the conversation. Speculating that he might be recording the conversation to put on social media, another comments that he hopes the recording will be posted so “everyone would know what’s going on around here.” Both scenarios and the questions students are asked to discuss appear in Appendix C.

#### ***1. Specific Learning Objectives***

In asking students to apply a company’s social media policy to a business scenario, the learning objectives correspond more broadly to the general skills identified by AACSB, NACE, and the Association of American Colleges and Universities.<sup>67</sup> These skills include the ability to work collaboratively with other students to:

- Critically analyze the two problems, including their ethical dimensions,
- Apply the social media policy of their assigned company to these real-world scenarios to determine if any of the employees have violated the policy, and
- Effectively communicate their analysis and conclusions to the other teams.

---

<sup>66</sup> We selected Best Buy and Walmart as they are often cited as having exemplary social media policies, most recently by Carolyn Forsey, 5 *Noteworthy Examples of Corporate Social Media Policies*, HubSpot at <https://blog.hubspot.com/blog/tabid/6307/bid/29441/5-noteworthy-examples-of-corporate-social-media-policies.aspx> (April 23, 2020). We then looked for shorter, less thorough policies that would allow students to see the value of more comprehensive policies. Depending on their use of this project, instructors may want to identify other policies more aligned with their goals for the project.

<sup>67</sup> See discussion *supra* Part II.B and notes 35-43.

## **2. Evaluating the Discussion**

Each scenario raises several social media issues. Both problems ask students to determine if the employee's actions violate a provision in their company's social media policy regarding disclosure of company confidential information and whether the employee properly indicates that his or her comments are personal opinions and not those of the company. In discussing the scenarios in class, teams search their policies to determine if their company's policy has a provision that clearly addresses an issue, a more ambiguous provision that can be interpreted to cover the employee's conduct, or if the policy is silent and lacks any relevant provision.

Teams have 10-15 minutes to use their company's policy to answer the questions following each scenario before we discuss them collectively, highlighting the different guidance each social media policy affords employees. Students quickly realize that some teams can easily answer the questions, while others found little, if any, guidance in their policies. Of the five policies applied by the teams to the "Break Room Chat Goes Viral" scenario, for example, the GM and Walmart policies clearly address each of the three questions posed to students while the Best Buy policy is ambiguous for all three. The Nordstrom policy demonstrates both ambiguity and silence: it is ambiguous in determining whether the workers improperly disclosed confidential company information but lacks any requirement that workers disclose their affiliation to the company or state that their comments are personal opinions. Similarly, in discussing the Day in the Life of an Aztec Driver, students also discover that again the GM, IBM and Walmart policies provide clear guidance in determining whether the employee has violated the Aztec social media policy, while neither the Best Buy nor the Nordstrom policies contain terms that allow the students to find a clear violation. We provide a full answer key to the discussion questions for each scenario Appendix D.

The Break Room Chat scenario also raises the question whether the water cooler discussion of hours, working conditions, and the health and safety of workers at the manufacturing facility is protected under federal labor law. The honors students assigned this project had not studied labor law protections for unionized, as well as non-union employees working in concert, nor were they aware of the role the NLRB guidance plays in setting lawful parameters for social media policies to ensure that worker speech protected under the NLRA is not prohibited by a company's policy.<sup>68</sup> Consequently, the instructor introduced these concepts to the class during the discussion as the students considered which activities, if any, would be protected.

## **D. Student Feedback**

We assigned the Social Media Project for the first time in Fall 2018, requiring only the digital component, adding the scenarios and in-class discussion component in the Spring 2019 semester. At the end of each semester, one of the authors posts a course-specific survey for the class on the university's learning platform that enables her to ask for detailed feedback on class activities and assignments. This survey included one multi-part question about the Social Media Project, as well as an open-ended question soliciting broader comments, suggestions and criticisms of the project.

Roughly 75% of the students in each section considered this a "fun" project that should be assigned again. Student comments also reflect this sentiment, with one student writing that the project is an "effective and fun break from normal lecture and class activities," while another commented that the "Infographic and video were my favorite digital literacy components." Another wrote that the "digital literacy part of the course was great and I loved making the Infographics despite how time consuming they were." One student specifically mentioned liking the digital tool Piktochart used to create the team infographics.

Several students commented about the value of the project toward their learning, with none posting negative comments:

---

<sup>68</sup> *The NLRB and Social Media*, *supra* note 52. In 2010, the NLRB began investigating charges that employees had been disciplined for their Facebook posts to determine if those dismissals violated federal labor law. In 2011 and 2012, the NLRB's General Counsel Acting Lafe Solomon issued three memoranda "detailing the results of investigations of dozens of social media cases." *Id.* Social Media Policy provisions that interfered with the rights of workers to discuss working conditions and wages were found to be unlawful under the NLRA. *Id.* See also *Employees' Use of Social Media and the NLRA Toolkit*, THOMSON REUTERS PRACTICAL LAW, [\(https://content.next.westlaw.com/Document/Icb40201dada311e598dc8b09b4f043e0/View/FullText.html?originationContext=document&transitionType=DocumentItem&contextData=\(sc.Default\)\)](https://content.next.westlaw.com/Document/Icb40201dada311e598dc8b09b4f043e0/View/FullText.html?originationContext=document&transitionType=DocumentItem&contextData=(sc.Default)) (last visited Sept. 1, 2019) (providing links to the NLRB memos and several legal updates between 2011 and 2018 on a variety of NLRB rulings in social media cases). See also Christine N. O'Brien, *The Top Ten NLRB Cases on Facebook Firings and Employer Social Media Policies*, 92 OR. L. REV. 337 (2013).

- I enjoyed the digital learning component of the class because I felt it was beneficial to my learning. I learned a lot of the material by applying it to the Infographics and videos and projects. No application was too difficult to use either.
- Utilizing technology to create the Infographics (and timelines) was helpful in some ways. They definitely helped me understand the material and it was also just nice to work with my classmates and make those connections.
- I think the digital portion of the class is one of the main reasons I enjoyed it so much. I learned more than I probably would have if I had to write essays instead.

Two students also noted the importance of developing skills that they may need in the future:

- The project was a great method for preparing students for the future. I think these skills are necessary for future success.
- I enjoy learning more technology or being able to utilize formats I am already familiar with because more and more platforms are being incorporated into the workplace and these allowed me to refine my skills and prepare for that.

Student responses to the end-of-course survey items are summarized in Table 3. While generally favorable, they indicate the importance of team dynamics. Roughly half of the three-student teams in the spring had a dysfunctional member during this project, which shifted the burden of completing the project more heavily onto the remaining members, as is reflected in their overall less favorable responses to the team-related items by students in the Spring 2019 class. Despite those issues, however, 71% still suggested the instructor retain the assignment.

**Table 3: Student Feedback on Digital Component of Project**

Survey Item	F 2018 % Yes Responses	SP 2019 % Yes Responses
The instructions for the project were reasonably clear.	100%	93%
I appreciate that we worked in teams for this project.	76%	64%
Our team worked well together in determining the content to include in our Infographic.	94%	50%
Our team worked well in creating the script for our video to help the employee use the social media policy appropriately and ethically.	53%	57%
Our team enjoyed filming the video.	65%	36%
Creating an Infographic to explain our company's social media policy in a visual format that could be displayed in an employee break room <b>helped me better understand the provision</b> and why it is important to the company.	53%	57%
I liked that we got to review each Infographic and video, voting for the "best" in each category, with the overall winners receiving extra credit points.	65%	57%
The instructor graded the Infographics and Videos fairly.	53%	79%
This was a fun project and should be assigned again.	76%	71%
We didn't have any major technical problems in creating our Infographic for this project.	82%	93%

## ***E. Adapting the Project***

The Social Media Policy Project can be used in other courses, at other levels and in other formats. As created, we have used it with teams of either three or five students; similarly, the number of social media policies available for teams to use for the project varies between five and twelve, and links to policies need to be verified each term before students are assigned the project, as companies frequently update their policies. GM, for example, updates its policy annually; the answers to the two scenarios that appear in Appendix D are based on GM's 2017 Social Media Policy. In addition to the infographic, training video and in-class exercise to analyze the two problems, students can be assigned a more traditional writing assignment in which they articulate their answers to the questions posed by each scenario.

The project can be used by upper-division students in a similar legal environment course, in a Human Resources or Employment Law class, or in a Social Media Law elective, though the instructor may want to revise our scenarios or create new problems for the in-class component to focus on additional issues more relevant to each of these courses. For example, in the Aztec Driver scenario, Sam may explicitly disclose confidential client information such as the name and address of the VIP client or merchandise being delivered, raising privacy issues that students can research and discuss.

In a modification of "Break Room Chat" problem, the employer could terminate the employees engaged in the conversation subsequently posted on Facebook. Students can then be assigned to research the memoranda issued by the NLRB in 2011 and 2012<sup>69</sup> and some of cases investigated by the NLRB that led to these memoranda to determine if such a dismissal would likely be upheld if the employees filed a charge with the NLRB. Alternatively, they can be asked to represent either the fired employees or the company in the case, submitting a written argument or participating in an oral argument representing their client before the NLRB.

## **V. Conclusion**

Generation Z is often called the digital generation because the internet has been part of their lives since birth. Despite this label, not all of them are familiar with corporate social media policies, nor are they comfortable with many of the free, online tools that can be used to demonstrate their understanding of required content in creative, digital formats. The versatile Social Media Project enables instructors to speak the language of these Generation Z students and respond to their learning preferences. It also engages them in a project designed both to introduce them to legal and ethical issues associated with social media policies, and to enhance their digital technology, communication and analytical skills to better prepare them for the workforce of tomorrow.

---

<sup>69</sup> *The NLRB and Social Media*, *supra* note 52. Links to each of the three reports can be found at The NLRB and Social Media website. *Id.* In the May 30, 2012 report (OM 12-59), for example, the NLRB upheld Walmart's rule requiring employees to maintain the confidentiality of the company's trade secrets, explaining its rationale on pages 22-24. Office of Public Affairs, *Acting General Counsel Releases Report on Employer Social Media Policies*, Nat'l Lab. Rel. Board (May 30, 2012), <https://www.nlr.gov/news-outreach/news-story/acting-general-counsel-releases-report-employer-social-media-policies>. This memorandum served as the basis for analysis of the two scenarios under the Walmart policy. *See infra* Appendix D.

## **APPENDIX A**

### **Instructions**

#### ***MEMO***

To: HR Managers  
From: VP for Human Resources  
Re: Company's Social Media Policy

Let me begin by thanking you for the excellent Infographics and training videos explaining certain Conflicts of Interest provisions to our employees. Since we posted an Infographic in employee break rooms and incorporated your videos into our Code of Conduct training program, violations of the policy have dropped, and calls to our anonymous 24-hour Help Line have increased!

Based on that success, we'd like you to create similar training materials to educate our employees about our social media policy. Recently, we have had to investigate and discipline several employees for posting inappropriate content on their blogs, Facebook pages, Twitter and other social media platforms. Some have reported negative information about co-workers or a supervisor, while others have complained about wages or their job duties. In one instance, we discovered an employee posting racist articles and videos on his Facebook page that we believe reflect badly on the company, which he expressly identifies on his page. While some of these posts may be intended to harm the company's reputation, we suspect that most are posted by employees who do not understand our policy or its legal implications.

We are preparing additional online training modules that will be implemented across the company within the next few months. In addition, we would like to create posters that can be installed in employee break rooms, warehouses, and other employee areas that explain these policies through words and pictures all employees can understand; they should also provide clear examples of prohibited conduct and tell employees how to obtain additional information if they have questions. Finally, we want to create 2-3-minute live or animated videos that depict realistic scenarios our employees may face, along with a clear explanation of what the employee should do to comply with the Social Media Policy.

Please create teams with three HR staff members and assign each team to create an Infographic that can be printed as a poster for the employee break room, supplemented with a 2-3-minute video that can be incorporated into our online training modules or used as a prototype for a longer, professionally developed training video. All projects must be received no later than **April 1** to be incorporated into the new training materials we hope to launch in the fall.

#### ***MEMO***

To: HR Teams  
From: Susan, HR Manager  
Re: Employee Social Media Policy Training Materials

You have been assigned to a team with three other HR staff members to create an Infographic (poster) and short video focusing on our social media policy that may be incorporated into our expanded employee training program, set to launch in the fall. Links to policies used for this assignment are posted below and also on the course website. I have also posted some recent articles, as well as a much longer "social media playbook" produced by Oracle that you may find helpful in identifying inappropriate employee conduct that might result in disciplinary consequences.

Read the company's social media policy carefully. Collectively decide what content to incorporate into an **Infographic** (worth 30 points) that could be posted in an employee break room to help employees *understand the policy, identify prohibited (or permitted) conduct, and inform them how to obtain more information if they encounter an issue or situation not covered by the policy.* Create your Infographic using Piktochart. Pick a

template from the hundreds available that you believe allows you to depict this information in a way that employees will find engaging, informative, and easy to understand.

In addition to your Infographic, your team is required to create a 2-3-minute **video** (worth 20 points) that shows a fictitious employee confronting a **realistic** problem that could be resolved by consulting the social media policy and complying with its provisions. This can be a live action video filmed using your cell phone or you can create an animated training video using another online tool such as PowToons or Biteable.

**The five social media policies available for this project are listed below and also posted on the course website on iCollege. Each team of 3 will sign up for one policy.**

- [Best Buy Social Media Policy](#) (last accessed on September 5, 2020)
- [General Motors Social Media Policy](#) (last accessed on September 5, 2020)
- [IBM Social Computing Guidelines](#) (revised since project; last accessed on September 5, 2020)
- [Nordstrom Social Media Employee Guidelines](#) (updated 2/13/2020 and last accessed on September 5, 2020)
- [Walmart Social Media Guidelines](#) (located near the bottom of the alphabetical listing of Walmart policies) (last accessed on September 5, 2020)

**APPENDIX B**  
**Social Media Project Scoring Rubric**

Company: \_\_\_\_\_

Team Members: \_\_\_\_\_

	Pts earned/ Pts possible	E	V G	G	S	Comments
<b>INFOGRAPHIC (30)</b>						
Identifies key points of policy (10)						
Ex of Permitted & Prohibited Conduct (10)						
More Info? (2)						
Template, Layout & Graphics (4)						
Engaging and Readable (4)						
<b>VIDEO (20)</b>						
Plausible Scenario and Issue(s) (7)						
Policy Application/ Explanation (7)						
Organization & Flow (3)						
Ability to Engage the Audience (3)						
<b>TOTAL SCORE _____ out of 50</b>						

## APPENDIX C

### The Two Scenarios

#### Scenario 1

##### *Day in the Life of an Aztec Driver*

You are a social media associate for Aztec dotcom, a 21st century multi-faceted company providing virtual shopping experiences, web-based cloud services, and online streaming to millions of consumers.

You were just assigned to review an employee's Facebook page and counsel her on posting job-related information. She was recently promoted and today is her second day as an Aztec VIP Driver. Excited, she posted a live recording of her first day as an Aztec VIP driver. She recorded it on Facebook Live while delivering packages to customers. The video starts out:

*Hi there, my name is Sam, and it is my first day working as an Aztec VIP Driver. I am a personal delivery driver for VIP customers. If you buy over \$20,000 through Aztec marketplace in a year, you too could reach VIP status. For those of you who may be interested in the job, I will tell you all about it as we drive around today.*

The video contains footage of Sam driving while she shares her experience interviewing for the new position, the questions that the company asked her, and the training she received. As she approaches a customer's home or business, she says, "Well folks, I am at a delivery location. I wish I could tell you who is receiving packages, but I can't share that information. You have to become a VIP Driver if you want to know the names and addresses of our famous customers. Wait here while I deliver the package."

She pauses the video and then resumes recording when she returns. However, you notice that her Facebook tracking is enabled. At the end of the recording, she invites her viewers to return the next day to learn more about her experiences as an Aztec employee.

You are scheduled to meet with Sam when she finishes her work shift later this afternoon. This is a counseling meeting to make sure that Sam does not violate any social media policy terms with her Facebook Live feed. Before your meeting, you need to research the company's social media policy to determine the answers to the following questions:

- What terms of the social media policy do you need to review with Sam?
- Are there any provisions that it appears Sam has violated?
- Do you need more information from her to determine if Sam is violating other provisions? If so, which provisions?
- You are concerned that Sam has the potential of violating other provisions. In researching the code, what other provisions in the policy do you want to discuss with Sam to make sure that she doesn't violate them in the future?

## Scenario 2

### *Break Room Chat Goes Viral*

You just landed your dream job as social media marketing director for a fast-growing car manufacturer. The company has received a lot of publicity for its ambitious goal of releasing 2,500 self-driving cars in 25 months. The cars are expected to be on the dealership lots in 9 months. The media anticipates a delay but does not have firm evidence to prove their speculations.

You have been asked to run interference to detract the public and prospective customers from press coverage on the release date for the new cars. Your first assignment is to create a marketing campaign focusing on the company's leadership in innovation and humanitarian causes. You are preparing a presentation to deliver to leadership when an email message notice pops up on your computer screen. It's from a member of your marketing team. The subject line catches your attention. It reads: "You are not going to believe this!" You click on the message: *Dear Rachel, One of our employees posted this video on YouTube. It's already been viewed by 500 people. Here is the link to the video. You should also read viewers' comments. Sasha*

The link is to a video of five assembly workers in the company break room. They are congregated by the water cooler and vending machines.

- Coworker #1 says, "These long hours are getting to me. The boss is constantly asking me if I can stay a few hours longer or pick up another shift. Don't get me wrong, I don't mind the extra dough, but I don't think I can keep this up until new cars launch date. Man, that's another 9 months."
- Coworker #2 responds, "We will be lucky if it's only 9 months. You listen to the news? 25,000 self-driving cars in 25 months without expanding our operation is impossible."
- Coworker #3 chimes in, "I don't need to listen to the news. I am in the factory every day like you. I know it's impossible, but why would management expand the operation when they can just work us to death."
- Coworker #4 says, "I'm worried about the safety of these new cars. Based on the current schedule, they won't have time to test the cars before they ship them out."
- Coworker #2 replies, "Forget about the safety of the new car owners. What about us? What about our safety and health if they keep working us this hard?"
- Coworker #1 says, "Hey Charlie, you're mighty quiet. What do you think?" He turns to the other three co-workers and says, "He's always on his phone like he's not listening or doesn't care."
- Coworker #4, says, "He's probably recording our conversation and putting it on social media."
- Coworker #2, "I wish he would. Then everyone would know what's going on around here."

Everyone laughs while Charlie pans the break room and ends with the camera on a sign that reads: Company Name and Logo Break room. Immediately below the break room sign is a word plaque with the words "What happens in Vegas..." The bell chimes and they all leave the break room and head back to garage to clock back in to work.

As you finished watching the video, you realized that HR will need to determine if these employees have any protection under federal labor laws. Before you talk to HR, however, you want to make sure you have claims against any or all of the employees for violating the company's social media policy.

To prepare for the meeting with HR, you review the social media policy. ***Assuming all the coworkers knew or should have known that Charlie recorded the conversation and was going to post it on social media***, you have identified several questions that need to be answered:

- Did any co-workers violate the provision in your company's social media policy regarding disclosure of company confidential information? If so, which coworkers?
- Did the coworkers properly disclose their affiliation to the company?
- Did the coworkers properly state that their comments were their opinion and not those of the company?

**APPENDIX D**  
**Suggested Answers to Problem Discussion Questions**

**Scenario 1: Day in the Life of an Aztec Driver**

**1) What terms of your company's social media policy do you need to review with Sam?**

- Employees must state that their comments are their opinions and not those of the company.
- Employees must not reveal any company confidential information.
- Employees must not disclose personal information about customers or clients.

**2) What terms do you probably have enough information to point out a clear violation?**

Social Media Policy	Clear Violation
<b>Best Buy</b>	None
<b>GM</b>	“Checking In” GPS location tracker on Facebook Live would breach confidential information, i.e., the address of GM customer
<b>IBM</b>	Sam didn't state that “posting on this site are my own opinions and don't necessarily represent IBM's positions, strategies or opinions”
<b>Nordstrom</b>	None
<b>Walmart</b>	Sam didn't make the required disclaimer” that postings on this site are my own and do not necessarily reflect the views of [Aztec]”

**3) What terms require more information from Sam to determine if she is violating the policy?**

- Is information about VIP status public or confidential information?
- Is the information about the interview and her training as a VIP driver for Aztec public or confidential information?

**4) What other terms should Sam be aware of to make sure she doesn't violate your company's social media policy?**

- Sam made her video recording using social media while on company time, not to mention the danger of videotaping while driving and social media policies like Walmart's state that employees should refrain from using social media while on work time or on work equipment.

**Scenario 2: A Break Room Chat Goes Viral**

Determine whether your company’s policy has a provision that clearly answers each question, provides an ambiguous answer at best, or is silent, providing no guidance to the employee.

- 1) Did any coworkers violate the company’s social media policy provision prohibiting disclosure of company confidential information? If so, which coworkers?

Social Media Policy	Clear	Ambiguous	Silent
Best Buy		Confidential information is not defined	
GM	Confidential information clearly defined		
IBM		Confidential information is not defined	
Nordstrom	Confidential information defined by examples		
Walmart	Confidential information defined		

- 2) Did the coworkers properly disclose their company affiliation? Did any violate the policy?

Social Media Policy	Clear	Ambiguous	Silent
Best Buy	Disclosure required		
GM	Disclosure required		
IBM	Disclosure required		
Nordstrom			No disclosure requirement
Walmart	Disclosure required		

- 3) Did any of the coworkers properly state that the comments they made were their opinions and not those of the company?

Social Media Policy	Clear	Ambiguous	Silent
Best Buy	Employees must claim their own opinions		
GM	Employees must claim their own opinions		
IBM	Employees must claim their own opinions		

Social Media Policy	Clear	Ambiguous	Silent
<b>Nordstrom</b>			No stated requirement to claim opinion
<b>Walmart</b>	Employees must claim their own opinions		

**Extra Discussion Question:** Are any of the worker comments protected under the NLRA as “concerted activity?”

**Suggested Answer:** Several of the workers’ comments constitute “concerted activity” because they are endorsed by or endorse the statement of other workers. Co-worker #1 says, “These long hours are getting to me. The boss is constantly asking me if I can stay a few hours longer or pick up another shift. Don’t get me wrong, I don’t mind the extra dough, but I don’t think I can keep this up until new cars launch date. ...” In response, Coworker asks, “why would management expand the operation when they can just work us to death.” Coworker #2 replies, “Forget about the safety of the new car owners. What about us? What about our safety and health if they keep working us this hard?” Coworker #4, says, “He’s probably recording our conversation and putting it on social media.” Coworker #2, “I wish he would. Then everyone would know what’s going on around here.” When everyone laughs, this implies agreement or consent.

**APPENDIX E**  
**Links to Student-Created Videos & Infographics Samples<sup>70</sup>**

Social Media Project: Training Videos	
Training Video	
Nordstrom	<a href="#">Social Media Policy</a>
Walmart	<a href="#">Training Video Using PowToons</a>

The authors want to thank the following Georgia State University Honors students who gave their permission to include their videos and infographics for this article: Ellen Clark, Jessica Heinstein and Zoe Mintz (Nordstrom); David Eisenstein, Chris Greene, and Tyler Judson Elsholz (Walmart); and Racheal Attaway, Dhanajay Khazanchi and Isabella Lungu (Best Buy).

Please see modified infographics samples created by students on the next page.

---

<sup>70</sup> Infographics samples have been modified to comply with copyright and trademark requirements.

# Student-Created Infographics Explaining the Social Media Policies of “Nordstrom” and “Best Buy”

## SOCIAL MEDIA POLICY

It's the age of technology and the whole world sits in the palm of our hands, so let's review our social media policy and best prepare you for any situation!



We'll keep it simple for you by giving you just 9 things you need to know and remember!

<p><b>N - NEED TRAINING</b></p> <p><b>1</b> To use [ ] in official accounts, as well as logos, photos, and videos belonging to [ ], you must be trained through our company.</p>	<p><b>O - ONLY PUBLIC INFO!</b></p> <p><b>2</b> Do not give out personal info belonging to yourself or to other customers/employees. In addition, do not post or leak any future plans, lines, collaborations, etc. of [ ].</p>
<p><b>R - REFRAIN FROM THE RUDE</b></p> <p><b>3</b> Do not post any photos of or rude comments concerning customers and/or fellow employees. Do not post anything that could be considered harassment, threatening, or discriminatory.</p>	<p><b>D - DON'T DISCOUNT</b></p> <p><b>4</b> You are not allowed to create contests or extend discounts to customers without consent from your manager.</p>
<p><b>S - STOP THE CONFLICT</b></p> <p><b>5</b> Do not post anything that could create or ensue a perceived conflict of interest, especially in regards to other lines and brands! Please see your manager if you have questions.</p>	<p><b>T - TERMS &amp; CONDITIONS</b></p> <p><b>6</b> Follow the terms and conditions of all social media sites, as well as [ ]'s guidelines for endorsements, (ie. "This isn't a [ ] personal view.")</p>
<p><b>R - RESPONSIBILITY = YOURS</b></p> <p><b>7</b> You're legally responsible for all posts, so make sure you're respectful of the company, other employees/customers, and other brands!</p>	<p><b>O - ONLY POST IT IF YOU LINK IT</b></p> <p><b>8</b> If receiving compensation or if you are a part of a paid affiliate program, you must link all posts back to the [ ]'s website.</p>
<p><b>M - MAKE THAT MONEY!</b></p> <p><b>9</b> Per [ ]'s policy, all time worked is PAID! Even if it's just a few minutes on social media, so long as its approved!</p>	

For all additional questions, please refer to the video provided online and sent to your emails, ask your supervisor or manager, or read N[ ]'s entire social media policy online at <https://shop.nordstrom.com/content/social-networking-guidelines>.

# NORDSTROM

powered by **PIKTOCHART**



## Best Buy Social Media Policy

Be smart. Be respectful. Be human.

### What you should remember when using social media platforms?

<p><b>Disclose Position</b></p> <p>Hello my name is [ ] Make it clear you work for [ ] when discussing work-related matters in your job area.</p>	<p><b>Be Diligent in sharing personal info</b></p> <p>Be careful of who sees what info.</p>	<p><b>Opinion</b></p> <p><b>State you are Expressing an Opinion</b></p> <p>When commenting about [ ] state that those are YOUR own views, unless you are authorized to speak for the company.</p>
<p><b>Live the Values</b></p> <p>Discrimination of any kind will NOT be tolerated.</p>	<p><b>Act Responsibly</b></p> <p>Do not misrepresent yourself. For example, do not say you work in a higher position if you do not.</p>	

### What should you never share on social media?

<b>X 01</b>	Confidential Financial and Operating Information Strategies, forecasts, or anything with a dollar value that is not public already
<b>X 02</b>	Promotions Any internal messages regarding events, promotional activities, and advanced ads
<b>X 03</b>	Legal Information Information about issues, cases, or our attorneys, especially without consulting the legal department first
<b>X 04</b>	Personal Information of Our Customers Our customers' information is strictly confidential
<b>X 05</b>	The work of others Post only your own original content and avoid copyrighted/trademarked works (include [ ] of Best Buy)





### More Resources

<p><b>Policies to Consider</b></p> <ul style="list-style-type: none"> <li>• Customer Information Policy</li> <li>• Information Security Policy</li> <li>• Code of Business Ethics</li> <li>• Confidentiality Policy</li> <li>• Inappropriate Conduct</li> <li>• Securities Trading Policy</li> <li>• Policy against Sexual Harassment</li> <li>• Policy against All forms of Harassment</li> </ul>	<p><b>Info Video</b></p> <p>You can view the VIP &amp; Social Media video on our private best buy portal.</p> 	<p><b>Further Questions</b></p> <p>Please contact your leadership if you have any further questions.</p> <h1 style="font-size: 2em; text-align: center;">?</h1>
--	---	---

Protect the Brand. Protect Yourself

powered by **PIKTOCHART**

