

Social Media and School Districts: Using the Tools and Knowing the Rules

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What Are “Social Media”?

- “**Social media** [are] media designed to be disseminated through social interaction, created using highly accessible and scalable publishing techniques.”
http://en.wikipedia.org/wiki/Social_media
 - “Web 2.0”
 - “UGC” – User Generated Content
 - “CGM” – Consumer Generated Media
- “It supports the democratization of knowledge and information, transforming people from content consumers into content producers.” *Id.*

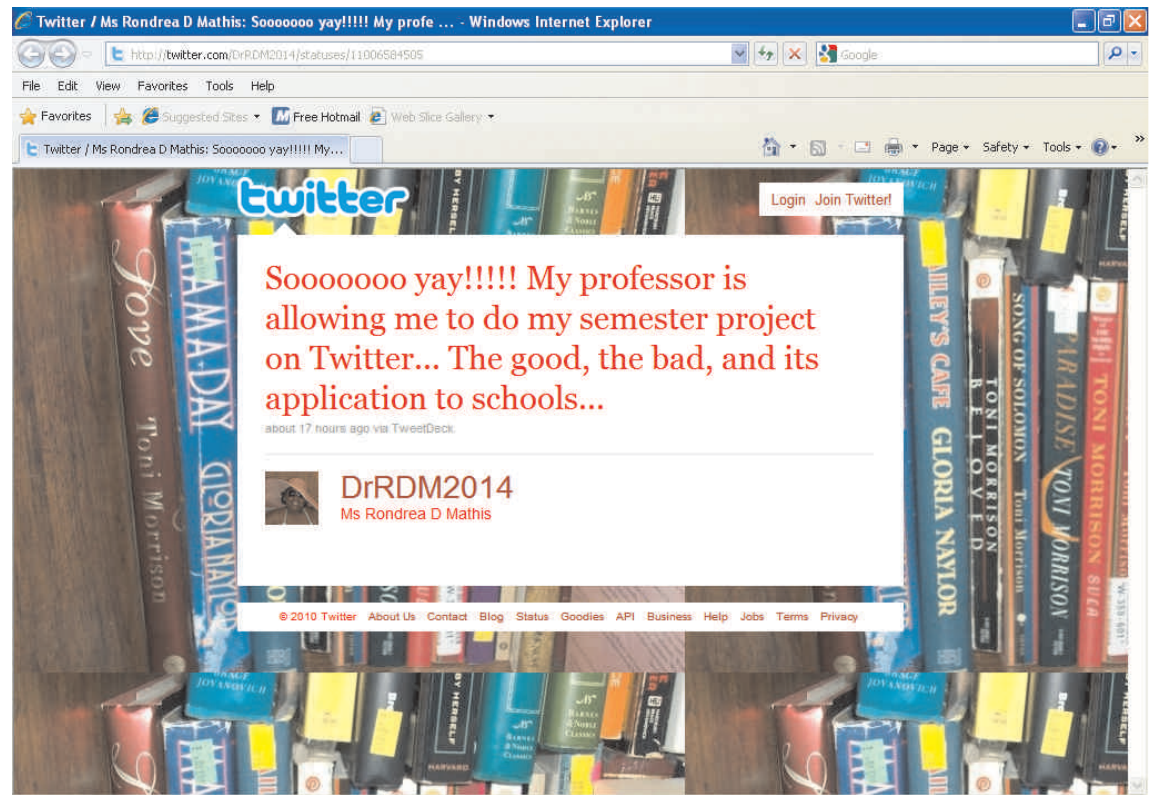
What Are “Social Media”?

- Some examples:
 - Blogs
 - Social Networking (e.g., Facebook, Twitter, Myspace)
 - Wikis (e.g., Wikipedia)
 - Video Sharing (e.g., YouTube)
 - Photography and Art Sharing (e.g., Flickr)

What Are “Social Media”?

Twitter

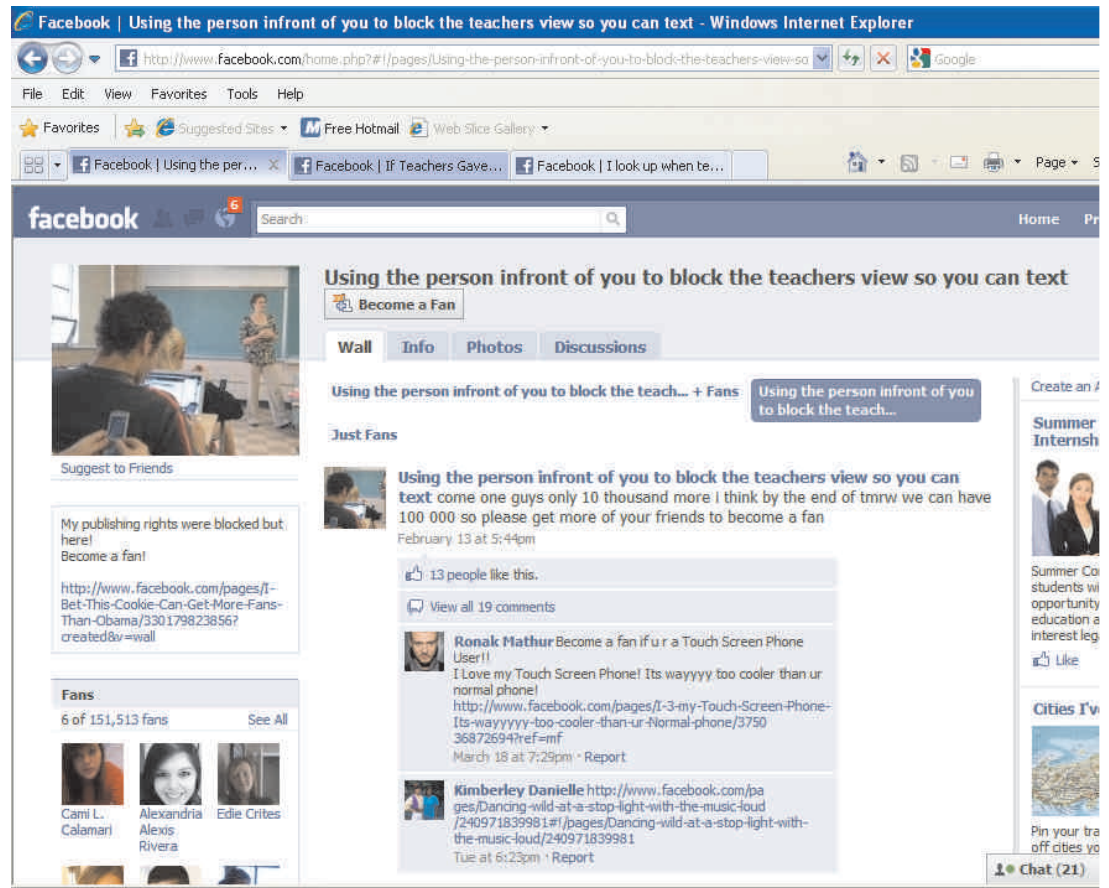
- “Twitter is a social networking and microblogging service that enables its users to send and read messages known as **tweets**.”
<http://en.wikipedia.org/wiki/Twitter>
- “Tweets are text-based posts of up to **140 characters** displayed on the author's profile page and delivered to the author's subscribers who are known as followers.” *Id.*



What Are “Social Media”?

Facebook

- “Users can add **friends** and send them **messages**, and update their personal **profiles** to notify friends about themselves.”
<http://en.wikipedia.org/wiki/Facebook>
- “Facebook has a number of features . . . [including] the **Wall**, a space on every user's profile page that allows friends [or the user] to post messages . . . **Photos**, where users can upload albums and photos; and **Status**, which allows users to inform their friends of their whereabouts and actions.”
Id.



Social Media as Public Records

- **RCW 40.14**: Preservation and destruction of public records
- “If the posts are **made or received in connection with the transaction of the agency’s public business** (such as providing advice or receiving comments about the agency, its programs, core business, etc.), then they are **public records** for the purposes of records retention and need to be retained for their minimum retention periods.” Secretary of State Sam Reed, “Electronic Records Management: Blogs, Wikis, Facebook, Twitter & Managing Public Records,” www.secstate.wa.gov, September 2009.
- “If the posts are **simply copies of records** that the agency is already retaining for the minimum retention period (such as links to publications), then the posts may be considered **secondary copies** and retained accordingly.” *Id.*

Watch What You Text!

- “[A]ll anyone can talk about is the scandal consuming **Mayor Kwame Kilpatrick**—the one a local TV station calls “**Sex, Lies, and Texting.**” . . . The Detroit Free Press **published text messages** between Kilpatrick (who is married with children) and his chief of staff, Christine Beatty (divorced with children), **that seem to confirm what both have denied under oath: that they had an illicit affair.**” Keith Naughton, “Sex, Lies, and Texting,” Newseek, January 25, 2008.
- “In the mayor’s case, the reason his messages have been exposed is because of the specialized service the city has contracted with to handle wireless **communications between city officials.**” Mike Wendland, “How secure are your text messages?,” Freep.com, January 24, 2008.

Watch What You Email!

- “In January, the high court [of Massachusetts] ruled that the Wayland School Committee **violated the Open Meeting Law** when four of five members **exchanged e-mails** about the school superintendent’s job performance prior to a public meeting.” Dan Ring, “Public E-mails: On the record,” *The Republican*, March 18, 2010.
- “‘Emails are like postcards,’ said . . . one of the Legislature’s top experts on the public records law. ‘**Anybody can read them.**’ . . . People can obtain e-mail messages of government employees by using the state’s Public Records Law. *Id.*

Watch What You Facebook!

- “[An] Olympia City Council member... caught some flak last fall for posting derogatory comments on his **Facebook page** about a citizen who was testifying **at that very moment.**” Brad Shannon, “Email, Facebook use by city council members keeps stirring up questions,” *theolympian.com*, July 7, 2009.



Watch What You Tweet!

- “A Twitter post from a Mukilteo councilwoman is raising questions about how the city conducts its business ‘City staff and some council now **Debriefing** and relaxing at ivars for late night happy hour. Time for dinner, I think!’ wrote Gregerson, who used the microblogging service to send **28 updates or tweets during the hearing.**” Chris Fyall, “‘Tweets’ brings possibly illegal meeting to light,” *HeraldNet*, June 18, 2009.
- “The state’s Open Meetings Act forbids elected officials from discussing official business that is likely to come before the elected body if there is a quorum and if the meeting wasn’t properly advertised to the public, said Tim Ford, open government ombudsman for the state Attorney General’s office.” *Id.*

Electronic Records – New Regulations

- Chapter 434-662 WAC relates to the preservation of EPR
- Ch. 434-662 elaborates on the application of records laws (e.g., chapter 40.14 RCW) to EPR

Chapter 434-662 WAC

PRESERVATION OF ELECTRONIC PUBLIC RECORDS

NEW SECTION

WAC 434-662-010 Purpose. Pursuant to the provisions of chapters 40.14 and 42.56 RCW, and RCW 43.105.250, the rules contained in this chapter are intended to ensure that electronic public records are securely preserved for their minimum retention period for present and future access and/or are transferred to the Washington state digital archives for retention so that valuable legal and historical records of the state may be centralized, made more widely available, and permanently preserved.

NEW SECTION

WAC 434-662-020 Definitions applicable to all sections of this chapter. Unless the context indicates otherwise, words used in this chapter shall have the meaning given in this section.

"Agency" means any department, office, commission, board, or division of state government; and any county, city, district, or other political subdivision or municipal corporation or any department, office, commission, court, or board or any other state or local government unit, however designated.

"Archival value" means those public records, as determined by state archivist's appraisal, that are worthy of long-term or permanent preservation by the archives due to their historical, legal, fiscal, evidential, or informational value, or are designated such by statute.

"Authentic" means that a public record is accepted by the state archives as genuine, trustworthy, or original.

"Authentication" means the process of verifying that a public record is acceptable as genuine, trustworthy, original, or authentic.

"Chain of custody" means the documentation of the succession of offices or persons who held public records, in a manner that could meet the evidentiary standards of a court of law until their proper disposition according to an approved records retention

[1]

OTS-9203.6

Electronic Records – Form and Substance

- Form: Electronic Public Records (“EPR”) includes any public records that are only retrievable and readable by a machine. WAC 434-662-020.
 - Examples: e-mail, web pages, scanned images, database files, word processing files, text messages, blog postings, “tweets”
- Substance: EPR are generally retained and disposed of **based on content**. WAC 434-662-030.

Electronic Records – Retention Schedules

- EPR must be retained pursuant to the applicable retention schedules. WAC 434-662-030.
 - As with paper records, destruction of, or changes to, EPR by local governments requires legal approval from the Local Records Committee

- EPR must be retained in electronic format. WAC 434-662-040.
 - Printing and retaining a hard copy is not sufficient (unless approved by the Local Records Committee)

Electronic Records – Substantive Distinctions

- “Official Public Records” = all original vouchers, receipts, and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use, and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which the state of Washington or any agency thereof may be a party; all fidelity, surety, and performance bonds; all claims filed against the state of Washington or any agency thereof; all records or documents required by law to be filed with or kept by any agency of the state of Washington; all legislative records; and all other documents or records determined by the records committee to be official public records.
RCW 40.14.010(1).
- “Office Files and Memoranda” = correspondence, exhibits, drawings, maps, completed forms, or documents not above defined and classified as official public records; duplicate copies of official public records filed with any agency of the state of Washington; documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with such agency; and other documents or records as determined by the records committee to be office files and memoranda.
RCW 40.14.010(2).

Electronic Records Retention – How Long?

- **Official Public Records:** generally six years
- **Office Files and Memoranda:** generally shorter pursuant to retention schedules
- **Archival Records:** Longer or permanent retention
 - Usually less than 5%!
- If a requested record is scheduled for destruction and the agency receives a request for it, the record cannot be destroyed until the request is resolved.
RCW 42.56.100; WAC 44-14-04003.

Key Electronic Records Schedules for Local Governments

- Current schedules available at:
<http://www.secstate.wa.gov/archives/gs.aspx>
- **Local Government Common Records Retention Schedule (CORE) - Version 1, December 2008**
- **School Districts and Educational Services Districts Records Retention Schedule - Version 7.1, July 2009**



1.1 ADMINISTRATION (GENERAL)

The activity associated with the day-to-day operations of the agency. Includes short-term records that can be disposed of as part of normal administrative practice.

ITEM NO.	DESCRIPTION OF RECORDS	DISPOSITION AUTHORITY NUMBER (DAN)	RETENTION AND DISPOSITION ACTION	DESIGNATION
1.1.6	<p>Communications – Non-Executive</p> <p>Internal and external communications to or from employees (includes contractors and volunteers), that are made or received in connection with the transaction of public business, and that are not covered by a more specific records series.</p> <p>Includes all communication types, regardless of format:</p> <ul style="list-style-type: none"> • Correspondence, email; • Web sites/forms/pages, social networking posts and comments, etc.; <p>Includes, but is not limited to:</p> <ul style="list-style-type: none"> • Requests for and provision of information/advice; • Agency-initiated information/advice. <p>Excludes executive communications covered by DAN GS2010-001.</p> <p>Excludes public records requests covered by DANs GS50-09-04 and GS2010-014.</p> <p>Excludes the provision of routine information covered by DAN GS50-02-01.</p> <p><i>Note: Information/advice published online by the agency continues to be "provided" until the date it is removed/withdrawn.</i></p>	GS2010-001 Rev. 0	Retain for 2 years after communication received or provided, whichever is later then Destroy.	NON-ARCHIVAL NON-ESSENTIAL OFM
1.1.7	<p>INFORMATIONAL REPORTS COMPILED FOR AGENCY USE</p> <p><i>Remarks: Please contact your Regional Archivist before disposing of this record. Records from this series may be selected to be transferred to and preserved at a Regional Archives branch.</i></p>	GS50-06F-03 Rev. 0	Destroy when obsolete or superseded - Potential archival value - See remarks	ARCHIVAL (Approval Required) NON-ESSENTIAL OFM



1.3. COMMUNITY RELATIONS						
<i>The activity of the local government agency's interaction with its community.</i>						
ITEM NO.	SERIES TITLE AND DESCRIPTION	OPR or OFM	PRIMARY (SOURCE DOCUMENT/ORIGINAL) RECORD COPY	SECONDARY (ALL OTHER) RECORD COPIES	DISPOSITION AUTHORITY NUMBER (DAN)	REMARKS
1.3.5	PUBLIC RESEARCH ACCESS REQUEST Request for access to district records for research purposes. <i>See DAN G550-09-04 for public disclosure requests.</i> <i>REV: Changed description. 07/2008</i>	OFM	Resolution of request plus 3 years.	Destroy when obsolete or superseded.	SD51-01-35	
1.3.6	PUBLIC RESEARCH ACCESS REQUEST LOG	OFM	Last entry in log plus 3 years.	Destroy when obsolete or superseded.	SD51-01-39	
1.3.7	SCHOOL BULLETINS AND NEWSPAPERS <i>REV: Changed primary retention and added remarks. 07/2008</i>	OFM	Retain until appraised by Regional Archivist. Potential archival value. <i>See remarks.</i>	Destroy when obsolete or superseded.	SD51-06F-03	These records must be appraised by your Regional Archivist. Contact your Regional Archives to arrange for appraisal and transfer.
1.3.8	STUDENT HANDBOOK/CALENDAR <i>REV: Changed primary retention and added remarks.</i>	OFM	Retain until appraised by Regional Archivist. Potential archival value. <i>See remarks.</i>	Destroy when obsolete or superseded.	SD51-06F-04	These records must be appraised by your Regional Archivist. Contact your Regional Archives to arrange for appraisal and transfer.

Electronic Records – Using the Schedules

- Understand cut off date – the retention “trigger”
- Short schedules – Know them, use them
 - Drafts
- Use schedule categories to determine what departments are most at issue
- Litigation and records requests supersede the schedule

Electronic Records - Disposition

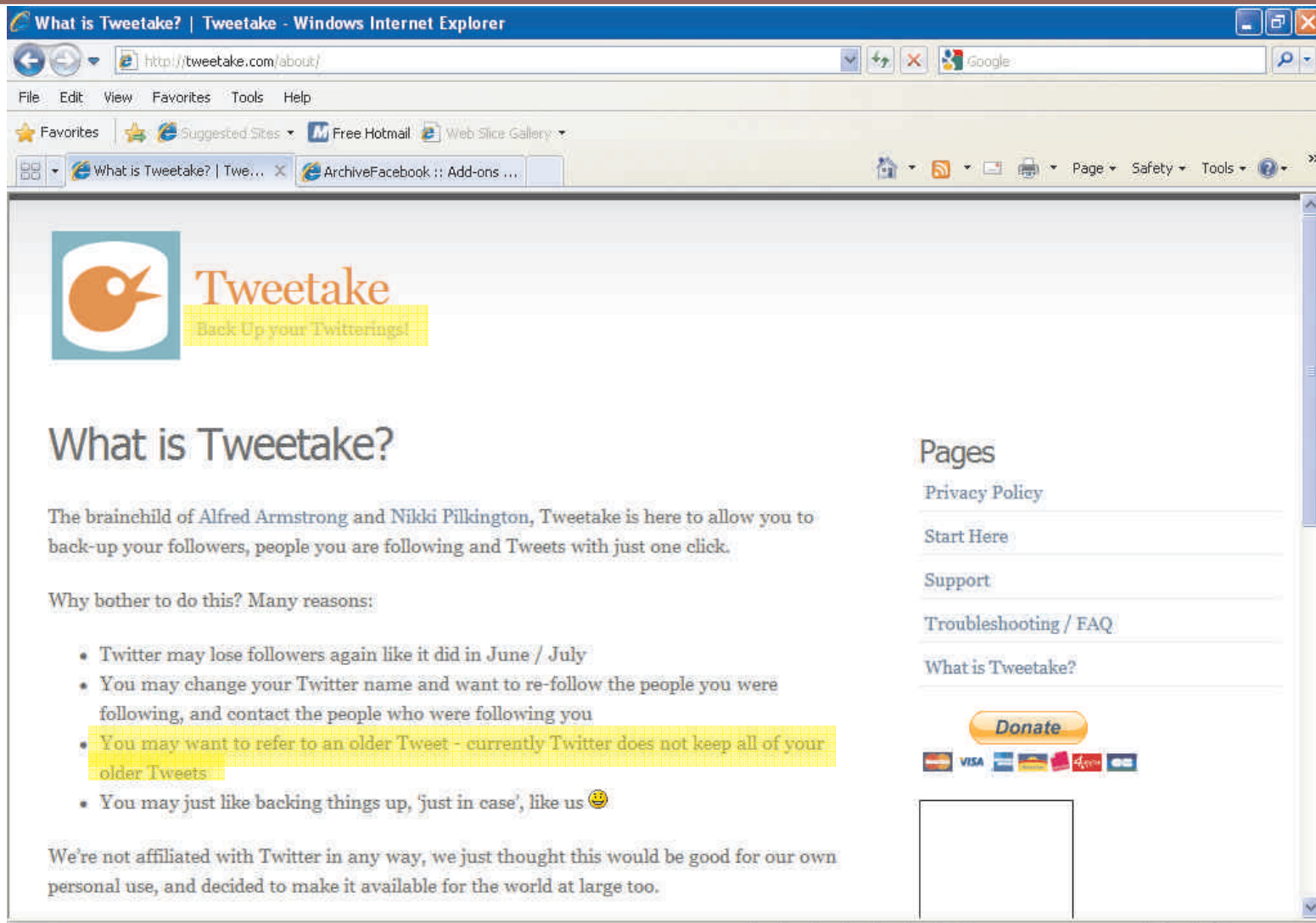
- EPR identified by the records committee as **archival** (WAC 434-662-050):
 - Must be retained in its original format
 - The agency must retain the hardware and software required to read the EPR, unless a verified conversion to a new system occurs
 - Retention lasts until verification that the EPR has successfully migrated to the digital archives

Electronic Records - Disposition

- EPR identified by the records committee as **nonarchival** (WAC 434-662-055):
 - May (and should) be disposed of after retention period (assuming no pending request or litigation)
 - EPR rendered obsolete by migration to a more current file format may be disposed of as a secondary copy, as outlined in Ch. 40.14 RCW and the applicable retention schedule

Electronic Records – Social Media

- Agencies need to retain posts that are EPR in some form
 - If outside the agency's control to maintain, the agency must create some sort of record, such as an e-mail confirmation of the post
- If the creation, receipt and retention of posts are outside the agency's control, then the agency should consider whether use of social networking technology is appropriate



See also “10 Ways to Archive Your Tweets,” http://readwriteweb.com/archives/10_ways_to_archive_your_tweets.php

Twinbox | TWITTER ADD-IN FOR MICROSOFT OUTLOOK

- » Overview
- » Screenshots
- » FAQ
- » Quick Start

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We hope you enjoy Twinbox!

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Download Twinbox, it is free!

Features

- Update your Twitter status directly from Outlook.
- Receive your friend updates in Outlook.
- Archive, manage, group and search your tweets the same way you manage your email (details)
- Search, track keywords. Twinbox will automatically download ALL tweets matching the keywords you specify, even if you are not following the tweet sender. This feature is perfect for keeping up to date with the Twitter buzz on your name, brand, interests, etc.
- Group tweets by sender, topic, etc using the Search feature.

DOWNLOAD
Download Twinbox.
Latest version: 2.0.0.109

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"I have used this product for one single day and it already makes my life much easier. Congratulations!! This is a fantastic add-on to Outlook and I am already addicted."
- Johan V.
[MORE USER TESTIMONIALS](#)

Like Twinbox? Check out **SimplyFile** - it will save you at least an hour a week!

TECH HIT TechHit on Facebook

The screenshot shows a Windows Internet Explorer browser window displaying the Mozilla Add-ons page for ArchiveFacebook 1.1. The browser's address bar shows the URL <https://addons.mozilla.org/en-US/firefox/addon/13993>. The page title is "ArchiveFacebook :: Add-ons for Firefox - Windows Internet Explorer".

The main content area features the "ArchiveFacebook 1.1" title, developed by Carlton Northern, Frank McCown, and Michael Nelson. A description states: "ArchiveFacebook is a free tool that allows you to save content from your Facebook account directly to your hard drive. Archive your photos, messages, activity stream, friends list, notes, events and groups." This text is highlighted in yellow in the original image.

Below the description is a "Share this Add-on" button and a "Download Now" button with a plus sign icon. A checkbox labeled "Let me install this experimental add-on. What's this?" is present, with "experimental" written below it. A "View privacy policy" link is also visible.

On the right side, there are several navigation links: "See All Download Management Add-ons", "See All Photos, Music & Videos Add-ons", and "See All Social & Communication Add-ons". Below these is a section titled "Need help with this add-on?" with links for "E-mail your question" and "Visit the support site".

At the bottom right, there is a "Tags" section with the following tags: archive, backup, data portability, and digital preservation.

The version number "Version 1.1" is displayed at the bottom of the page.

SocialSafe - Save. Store. Explore. | Your Facebook photos, profile and friends saved to your ma - Windows Internet Explorer

http://www.socialsafe.net/

File Edit View Favorites Tools Help

SocialSafe - Save. Store. Explore. | Your Facebook ph...

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SOCIAL SAFE

Electronic Records – Social Media

- “The **Kitsap County Parks and Recreation** Department’s foray into the world of social media was short-lived Tracking th[e] records can be done, said [Bud Harris, the county’s director of information services], but it would **require** him to invest a **considerable amount of time** getting the county’s IT systems up to **speed.**” Chris Henry, “Kitsap Official: Right Now, Social Media Is More Trouble Than It’s Worth,” *Kitsap Sun*, November 7, 2009.
- “**Snohomish** recently launched its own Facebook page. The process **took about two months, cost \$1,000 in design work and involved consulting city attorneys** In Snohomish, the city plans to create **PDF files of its Facebook wall**, a place where users post messages. The city also has a **program to grab and save video clips**, preserving those.” Andy Rathbun, “Snohomish gets on Facebook, but finds it’s more complicated for government,” *HeraldNet*, February 21, 2010.

Electronic Records – General Compliance

- Education and Training
- Share responsibility
- Control the volume – you don't need to retain it if it does not exist
- Consider policies, especially for new media (City of Seattle)
- Easier said than done: organize records by retention series
 - Examples:
 - E-folders
 - Shared drives

Electronic Records – General Compliance

- Integrate
 - Storage of hard copy and electronic records by approved imaging
 - Use same categories and vocabulary
- When the law allows you to get rid of it, get rid of it once you have approval
 - Server space
 - Review time
 - Litigation
- Asking permission is better than begging forgiveness

Additional Concerns

- **Public Disclosure Commission – Social Media and Political Campaigning**
 - **RCW 42.17.130**: Prohibition regarding the use of public funds and public property and facilities to support or oppose candidates or ballot propositions.
 - Social media sites are likely **public property and facilities**. E.g., “[r]emember that voice-mail and e-mail are both office property and facilities.” James K. Pharris, Deputy Solicitor General of Washington, Memorandum of June 24, 2008.
 - The same restrictions will apply, **based on content**.

Additional Concerns

- **Public Disclosure Commission – Social Media and Political Campaigning**
 - “An agency may develop an objective and fair presentation of the facts and post that information on its website, including information regarding agency needs and the anticipated impacts of a ballot measure.” Public Disclosure Commission, “Guidelines for Local Government Agencies in Election Campaigns,” September 28, 2006.
 - “Agency computers, email systems, telephones, and other information technology systems **shall not be used to aid a campaign** for or against a candidate or ballot measure Agency websites shall not be used for the purposes of supporting or opposing a candidate or ballot measure.” *Id.*

Additional Concerns

- **Terms of Service**—most online sites require account owners to agree to particular terms of service, including:
 - Indemnification and defense
 - Choice of law and venue
- **Advertising**
 - Ads may raise ethical concerns depending on content.
 - May give the appearance that the government is endorsing the content.

Additional Concerns

- **Privacy**

- No guarantee that social media sites will protect people's privacy.
- Contributions from private users to the public site will likely be public record.
- Disclaimers may be appropriate.

The screenshot shows a Windows Internet Explorer browser window displaying the Facebook page for Coral Springs Florida. The browser's address bar shows the URL: <http://www.facebook.com/coralsprings?v=wall&viewas=557797952>. The Facebook page header includes the search bar and navigation links for Home, Profile, and Account. The main content area features the Coral Springs Florida logo, which is a circular seal with a green 'S' and the text 'CORAL SPRINGS - FLORIDA' and 'CITY CHARTERED • JULY 10, 1963'. Below the logo, it says 'The Official City of Coral Springs Facebook Page' and 'Send Coral a Message'. A yellow highlight covers a paragraph of text: 'Under Florida law, all content on the City's Facebook page is subject to public records law, Chapter 119, Florida Statutes. By becoming a fan your information will be a matter of public record. For disclosure click: <http://www.coralsprings.org/fb>'. A callout box with a yellow background and black text points to this text, repeating the same message: 'Under Florida law, all content on the City's Facebook page is subject to public records law, Chapter 119, Florida Statutes. By becoming a fan your information will be a matter of public record. For disclosure click: <http://www.coralsprings.org/fb>'. The page also shows a post from Coral Springs Florida asking for citizen participation and insights into the needs of the community. The right sidebar contains a 'Cities I've Visited' section with a map and a 'ism with' section with a profile picture.

Additional Concerns

- **First Amendment – Freedom of Speech**
 - Allowing public comments may create a general public forum.
 - A limited forum may be more appropriate.
 - Editorial control should be based on a close reading of the law.

Additional Concerns

- **First Amendment – Freedom of Speech**
 - **City of Seattle Facebook Standard:**
 - “If comments are turned on, the Wall page should include a Comment Policy Box with the following disclaimer:
Comments posted to this page will be monitored. Under the City of Seattle blogging policy, the City reserves the right to remove inappropriate comments including those that have obscene language or sexual content, threaten or defame any person or organization, violate the legal ownership interest of another party, support or oppose political candidates or ballot propositions, promote illegal activity, promote commercial services or products or are not topically related to the particular posting.”

Social Media and School Districts: What is Required and How to Comply

April 15, 2010

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