

# THE LEGAL E

A LEGAL NEWSPAPER FOR KIDS

Published by New Jersey State Bar Foundation

SPECIAL SOCIAL MEDIA EDITION

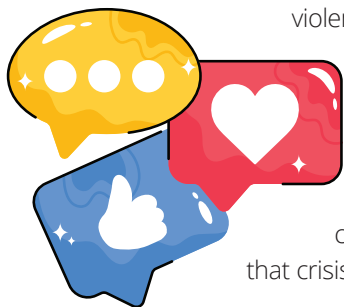
## Lawmakers Look to Curb Harm on Social Media Platforms

by Maria Wood

According to the Pew Research Center, approximately 95% of kids ages 13 to 17 are on social media, with more than a third of them admitting “they use social media ‘almost constantly.’” In May 2023, U.S. Surgeon General Dr. Vivek Murthy released an advisory about the harmful effects of social media usage on our nation’s youth.

“Children are exposed to harmful content on social media, ranging from violent and sexual content, to bullying and harassment,”

Dr. Murthy said in a statement when the advisory was released. “And for too many children, social media use is compromising their sleep and valuable in-person time with family and friends. We are in the middle of a national youth mental health crisis, and I am concerned that social media is an important driver of that crisis—one that we must urgently address.”



CONTINUED ON PAGE 6

## TikTok Bans Show Difficulty of Balancing National Security and Free Speech

by Emily Pecot

Since its creation in 2016, TikTok, the short-form video-sharing app, has grown significantly. Currently, TikTok has approximately 1.1 billion active users worldwide—150 million of them are in the United States where the app launched in 2018. According to the Pew Research Center, two out of three American teenagers use TikTok.

Despite its popularity, an August 2023 Reuters/Ipsos survey revealed that nearly half of Americans support a full or partial ban on TikTok. This comes after government officials have expressed national security concerns about TikTok’s China-based parent company, ByteDance.

“Lawmakers and regulators in the West have increasingly expressed concern that TikTok and its parent company, ByteDance, may put sensitive user data, like location information, into the hands of the Chinese government,” according to reporting from *The New York Times*. “They have pointed to laws that allow the Chinese government to secretly demand data from Chinese companies and citizens



CONTINUED ON PAGE 2

## Garden State Aims to Give Students the Tools to Spot Fact from Fiction

by Sylvia Mendoza

Growing up in the age of technology, the convenience of googling information on any topic is probably second nature to you. The problem is the possibility that the information you’re getting could be inaccurate (misinformation) or purposely misleading (disinformation).



As an example, in 2018, actor and filmmaker Jordan Peele produced a video with BuzzFeed that revealed how easily fake news can be created. They used artificial intelligence (AI) tools and software on a video of former President Barack Obama to create a deepfake and manipulate what he said.

A deepfake is a video, image, or audio recording that has been digitally altered by sophisticated AI to replace the person in the original with someone else in a way that seems convincingly real. The news coverage of Peele’s project reinforced how people need to be more vigilant with what they trust on the internet. You can’t always trust your eyes and ears.

CONTINUED ON PAGE 4

for intelligence-gathering operations.” *The New York Times* pointed out that the U.S. government is also worried that China may pressure TikTok to use its **algorithm** to push misinformation that benefits the Chinese government.

“TikTok’s security, privacy and its relationship with the Chinese government is indeed concerning, but a total ban is not the answer,” Kurt Opsahl, deputy executive director and general counsel for the Electronic Frontier Foundation, a non-profit digital rights group, told *Government Technology* magazine. “A total ban is not narrowly tailored to the least restrictive means to address the security and privacy concerns, and instead lays a censorial blow against free speech.”

In December 2022, ByteDance admitted in an internal investigation that two employees working in the U.S. and two employees working in China wrongfully accessed the private

information of American TikTok users, including two U.S. journalists. All four employees were fired; however, the incident reinforced concerns that U.S. lawmakers already had. The U.S. Department of Justice is currently investigating the incident.



### Addressing national security concerns

In March 2023, U.S. Senator Mark Warner, a member of the Senate Intelligence Committee, introduced The Restricting the Emergence of Security Threats that Risk Information and Communications Technology (RESTRICT) Act. The legislation would, among other things, require the U.S. Secretary of Commerce to establish procedures to identify and mitigate transactions involving information and communications technology products in which a foreign adversary has an interest and poses undue or unacceptable risk to national security. The RESTRICT Act initially received **bipartisan** support; however, free speech organizations, including the American Civil Liberties Union (ACLU), pushed back against the bill.

“Congress must not censor entire platforms and strip Americans of their constitutional right to freedom of speech and expression,” Jenna Leventoff, senior policy counsel at the ACLU, said in a press statement. “Whether we’re discussing the news of the day, live streaming protests, or even watching cat videos, we have a

right to use TikTok and other platforms to exchange our thoughts, ideas, and opinions with people around the country and around the world.”

Critics say the solution to preserving national security shouldn’t be enacting laws that echo those of China, where major social media platforms are banned or restricted.

“It’s a maddening irony that American legislators’ idea for countering China is to act more like China, home of the Great Firewall that censors its citizens’ free access to the flow of information,” Rianna Pfefferkorn, research scholar with Stanford University’s Internet Observatory, which studies abuse in information technologies, told *Wired*. “Banning a popular social media app, especially on the basis of speculative concerns, is directly contrary to the vision of a free and open internet that the US has long promulgated [spread] abroad as part of our commitment to democracy.”

### State, national and global bans

In 2019, the Pentagon urged all its employees to uninstall TikTok from all military devices. Efforts to ban TikTok more widely in the United States go back to the summer of 2020 when the Trump administration issued an executive order barring TikTok from operating within the United States. That ban was temporarily blocked while challenges went through the courts. In December 2020, a federal judge halted the ban permanently finding the administration overstepped its authority and “acted in an **arbitrary** and **capricious** manner by failing to consider obvious alternatives.”

In June 2021, President Joseph Biden authorized a security review for all foreign-owned apps. In February 2023, President Biden signed a bipartisan bill that gave all federal government agencies 30 days to remove TikTok from federal devices. In addition, the Biden administration urged ByteDance to sell TikTok to an American company or risk a nationwide ban in the U.S. The Chinese



This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

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Ministry of Congress issued a statement in March 2023 opposing a forced sale of TikTok.

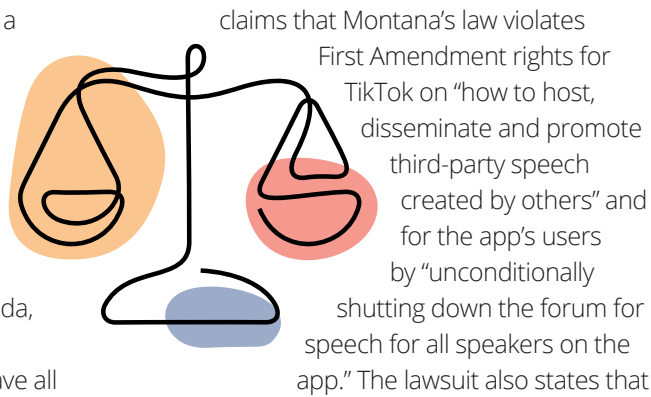
The United States is not the only country that has banned the app on government devices. Great Britain, Australia, Canada, Taiwan, Belgium, Denmark, France and New Zealand have all done so as well. Afghanistan, India, Iran, Kyrgyzstan, Nepal and Somalia have full bans of the app for government agencies as well as citizens. When India banned TikTok in 2020, the app lost 200 million users, making the United States TikTok's largest market. Interestingly, while the app was developed in China with Chinese technology, it isn't accessible in that country. China has a different version, the so called "sister app" of TikTok, called Douyin.

As of June 2023, 34 U.S. states have banned TikTok from government devices, according to news reports. In January 2023, New Jersey Governor Phil Murphy issued a directive to remove TikTok from all state-owned devices, making exceptions for some state business, like public safety announcements, as long as there is no connection to a secure state internet network.

### One state takes it farther

In April 2023, Montana lawmakers voted 54-43 to ban TikTok, not just on government devices but personal devices as well. Montana Governor Greg Gianforte signed the bill into law in May 2023 making Montana the first state to enact a total ban of TikTok. The law prohibits TikTok from operating within the state, imposing a \$10,000-per-day fine on app stores, like the Apple App Store and Google Play, if they allow users in Montana to download the app. Users of the app would not be punished under the law.

TikTok filed a lawsuit against the state in the U.S. District Court for the District of Montana. The complaint



the federal government, not the state government of Montana, is responsible for national security.

In addition to TikTok's lawsuit against the state, five Montana TikTok users also filed suit challenging the law on free speech grounds. Their lawsuit is being financed by TikTok and has been consolidated into one lawsuit before the court. TikTok estimates that there are approximately 200,000 TikTok users in Montana.

Carl Tobias, a professor at the University of Richmond School of Law, told *The Washington Post* that Montana's ban is "a pretty clear violation of the First Amendment" and that TikTok has a strong argument about national security, which "is clearly within the purview of the president and the Congress, not individual states."

The new law was set to take effect on January 1, 2024; however, on November 30, 2023 a federal judge granted a preliminary **injunction** preventing the law from going into effect until the case is heard.

"The current record leaves little doubt that Montana's Legislature and attorney general were more interested in targeting China's ostensible role in TikTok than with protecting Montana consumers," Judge Donald W. Molloy wrote in his opinion. He also stated that Montana's "foray into foreign affairs interprets the United States' current foreign policy interests and intrudes on them."

### Grilling TikTok's CEO

In March 2023, during a nearly six-hour hearing before the House of

Representatives Energy and Commerce Committee, TikTok CEO Shou Zi Chew testified about everything from privacy issues on the app, its relationship to China and potential pressure for it to release private data to Chinese authorities, as well as issues of disinformation on the platform and addiction to the platform.

During the hearing, Chew was repeatedly asked whether TikTok employees could "spy on or target people in the U.S." Chew said he had "seen no evidence that the Chinese government has access to that data. They have never asked us; we have not provided it," he stated.

To address security concerns, TikTok proposed a plan in 2022 called Project Texas. At a cost to TikTok of \$1.5 billion, the app would partner with tech giant Oracle to move TikTok's American user data to U.S. servers. Only Oracle and TikTok employees based in the U.S. would have had access to the data. The Biden administration rejected the plan, saying it did not go far enough to protect privacy domestically.

Regarding the safety of children on TikTok, lawmakers brought up dangerous "challenges" promoted on the app, including the blackout challenge where challengers hold their breath until they pass out. In 2021, the blackout challenge resulted in the deaths of nearly 20 children. In addition, lawmakers grilled the CEO on TikTok's addictiveness. Chew pointed to parental controls available on the app.

### It's a community

According to TikTok, more than 5 million businesses use the app as a marketing tool. According to Influencer Marketing Hub, a Denmark company that shows potential influencers how to leverage the power of social media, the creator economy has grown to more than \$100 billion annually due to platforms like TikTok. One TikTok influencer told CNBC that his business brought in more than

## Information Literacy **CONTINUED FROM PAGE 1**

Many students are savvy about accessing information online. But when it comes to assessing fake news, misinformation and disinformation, they may not know what to look for. Dr. Corrine Hyde, a professor of clinical education at the University of Southern California's Rossier School of Education, isn't convinced that students can discern what is true and false on social media.

With an expertise in information technology and educational psychology, Dr. Hyde teaches future teachers the intricacies of technology, information literacy, ethics, and equity. Since 2009, she has seen how the internet and online platforms have changed the world, and not always for the better.

"There are benefits and drawbacks always," Dr. Hyde says. "Teachers have to learn and teach what is reliable and what is not, what is trustworthy and what is not in media resources and translate that to their students."

### **New Jersey leads the way**

To prepare students for a future as digital citizens, in January 2023, New Jersey Governor Phil Murphy signed into law a measure requiring information literacy curriculum standards for K–12 students. The new law requires the New Jersey Department of Education (NJDOE) to develop New Jersey Student Learning Standards in "information literacy." As defined in the law, information literacy is "a set of skills that enables an individual to recognize when information is needed and to locate, evaluate, and effectively use the needed information. Information literacy includes, but is not limited to, digital, visual, media, textual, and technological literacy."

While Illinois has a high school requirement for information literacy education and other states, including Washington, Colorado and Texas, have policies to teach some form of media literacy in school, no state has mandated instruction for the K–12 grade band until New Jersey.

"Our democracy remains under sustained attack through the proliferation of disinformation that is eroding the role of truth in our political and civic discourse," Governor Murphy said in a statement. "It is our responsibility to ensure our nation's future leaders are equipped with the tools necessary to identify fact from fiction."

The terms "information literacy"

and "media literacy" are often used interchangeably.

Laura Fredrick, Director of Communications at the New Jersey Department of Education, explains the difference. Information literacy, as it applies to the

New Jersey Student Learning Standards, centers on equipping students with skills for research methods, critical thinking, evaluation of source credibility, using research tools, and recognizing the use and ethical production of information in any medium of communication, she says. Media literacy generally focuses more on decoding media messages and assessing the influence of various media outlets and platforms.

While the NJDOE does not create curriculum, it will set overarching educational standards and provide resources so, at the local level, districts can determine the best way to implement the information literacy standards into their daily curriculum.

The seven areas of information literacy that must be added to New Jersey's Student Learning Standards include: (1) the research process and how information is created and produced; (2) critical thinking and using information resources; (3) research methods, including the difference between primary and secondary sources; (4) the difference between facts, points of view, and opinions; (5) accessing peer-reviewed print and digital library resources; (6) the economic, legal, and social issues surrounding the use of information; and (7) the ethical production of information.

### **Purpose of teaching information literacy**

In a 2022 Pew Research Center study, researchers found that 97% of teens surveyed said they use the internet daily and 46% admitted to being on the internet constantly, a number that increased from 26% in 2015. YouTube and TikTok are the most accessed social media apps, according to the study, and some students get their news from these sources.

According to an article on media and information literacy by the Council of Europe's Digital Citizenship Education, school is the one place where it is absolutely crucial to train future citizens to understand, to criticize and to create

information. Not only can the New Jersey information literacy standards help students become more savvy in their choices, knowledge, and wellbeing as they navigate media in school, it may guide them well into adulthood as responsible (digital) citizens in their communities.

If a person is not media literate, they may accept the first source they run across on Google as truth.

They may not discern media bias, which can affect the ability to form individual opinions and views. Being educated in information literacy can be invaluable in discerning truth from fiction on the internet.





## Information Literacy CONTINUED FROM PAGE 4

Project Look Sharp, a media literacy outreach initiative at Ithaca College, suggests asking certain questions when encountering a questionable piece of information. For example, who produced the information, who is the target audience, who paid for it and more importantly who gets paid if you click on it. Other suggestions include reading a site's "About Us" section to find out who supports or is associated with a particular site and look for unusual URLs that might indicate that a site isn't legitimate. In addition, be on the lookout for websites that try to look like a legitimate news outlet but aren't.

The Stanford History Education Group, a research and development group at Stanford University that has been a major proponent of teaching media literacy, advocates teaching students lateral reading, a technique used by professional fact checkers. In lateral reading you leave the site you're on to open a new tab where you consult other sources to determine whether the information you're reading is credible.

### Implementing information literacy

With so many resources on media literacy out there, using the same information literacy standards statewide can help streamline choices for teachers. New Jersey's law requires school librarians to be involved in the drafting of information literacy curricula at the district level. The NJDOE will assemble a panel of certified school library media specialists as well as additional educators specializing in a variety of subjects to develop supporting documents, Fredrick explains. They will also highlight information literacy content that already exists in the disciplines of English language arts, mathematics, social studies, science, comprehensive health and physical education, world languages, and visual and performing arts.

The New Jersey Association of School Librarians will also help teachers and school library media specialists to collaborate on curriculum development and instruction.

According to Dr. Hyde, information literacy taught in schools can help close the digital divide, which was compounded by the COVID-19 pandemic when some

students didn't have access to the internet, laptops and other devices, causing them to fall behind.

"There was a visible disparity," says Dr. Hyde. "The gap is still there."

Dr. Hyde also says that with artificial intelligence being used regularly, teachers can get ahead of the curve by learning and teaching how to use it and how to verify it. The Jordan Peele video is a reality now, she says.

"AI is absolutely relevant to the conversation of information literacy. It can take workload off teachers and students, but it is flawed and biased since it builds off human input," Dr. Hyde says but points out that the technology can be useful if "used the right way."

Development of New Jersey's information literacy standards began in fall 2023. Hearings for public comment

on the standards must be held before they are formally adopted.

"Our State has a responsibility to equip the next generation with the tools they need to think critically in order to separate fact from fiction," says Fredrick. "Understanding how to obtain and assess information accurately is not only critical to the academic success of New Jersey's students, but also critical to the success of our democracy as a whole." 🗳️

## INFORMATION LITERACY



### DISCUSSION QUESTIONS



1. What long-term impact do you think incorporating information literacy into the K-12 curriculum might have when New Jersey students become adults? Explain your answer.
2. The article mentions several strategies for confirming information sources. What strategies do you currently use to ensure that the information you come across on the Internet or through social media is accurate?
3. Have you ever seen a deepfake on social media, like the one described in the article that was created by Jordan Peele? Did you realize it was fake? If so, how did you spot the deception?

## Informed Citizens are Better Citizens

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Specifically, the Surgeon General's report claims spending time online damages an adolescent's self-esteem, perpetuates eating disorders, and increases negative feelings about their bodies. One statistic in the report states that 46% of 13- to 17-year-olds surveyed said being on social media made them feel worse about their bodies. In addition, a Centers for Disease Control and Prevention report, released in 2023, revealed that teenage girls face "unprecedented levels of hopelessness" and one in three girls have seriously considered suicide.

### **U.S. senators take on issue**

Two bills being considered in the U.S. Senate would set age limits on social media usage. The Protecting Kids on Social Media Act, introduced in April 2023 by a **bipartisan** group of senators, would bar children under 13 from creating social media accounts. Young people between the ages of 13 and 17 would need consent from a parent or guardian before creating an account. In addition, the legislation stipulates that social media companies would not be permitted to use a teen's personal information to push advertising or content to them. The legislation would also establish a program, run by the Department of Commerce, to verify the age of users. The government-run program would be voluntary. Social media companies could also develop in-house age verification technology or hire a third party to verify ages.

In July 2023, the Kids Online Safety Act (KOSA), another bipartisan bill was introduced. Similar to the Protecting Kids on Social Media Act, KOSA would ban anyone under 13 from joining a social media network and require parental permission for young people under

17. KOSA would also empower the Federal Trade Commission and state attorneys general to penalize social media companies

that expose children to harmful content, including glamorizing eating disorders, suicide and substance abuse.

In addition, Senate lawmakers proposed an update to the Children's Online Privacy Protection Act (COPPA), a law enacted in 1998 to protect the privacy of children 13 and younger, giving parents control of what data is gathered by their children on the internet. Under COPPA 2.0, the age of protection would be raised to 16. Social media companies would be barred from collecting personal information without parental consent under COPPA 2.0 and it would also ban advertising aimed at children and teens.

Jonathan D. Bick, an adjunct professor at Rutgers Law School in Newark, notes that under COPPA, commercial social media companies can be held liable if someone under 13 goes on their platform. Bick, who has published more

consent to open a social media account for those under age 18. The law is slated to take effect in March 2024.

According to the National Conference of State Legislatures, 35 states and Puerto Rico have proposed legislation to curb the harm of social media on the young. In addition, 11 states have either passed laws or resolutions to address the problem, including creating study commissions, requiring age verification or parental consent to open a social media account, and requiring age verification in order to access certain websites.

Some of these laws have met with pushback in the courts. In fact, when Utah Governor Spencer Cox signed the state's legislation into law, he said he anticipated that the law will be challenged in the courts; however, at press time it had not.

Federal courts have so far blocked California and Arkansas from enforcing laws requiring parental consent for minors to create new social media accounts on the grounds that it may violate the First Amendment. Professor Bick contends banning children under 13 from social media sites isn't a First Amendment violation because the platforms are private entities, not government agencies.

In the Garden State, Governor Phil Murphy signed legislation in July 2023 to establish a commission to study the effects of social media usage on adolescents. *New Jersey Advance Media* also reported that in November 2023 Assemblyman Herb Conaway introduced a bill in the New Jersey Assembly mandating that social media platforms verify that users in New Jersey are at least 18 years of age or have parental consent to be on the platform. The bill is not expected to have a hearing until January 2024 at the earliest.

### **Problem with limits**

Critics of laws that ban or limit youth on social media claim they add another



than 200 articles dealing with internet law, points out that these companies can avoid liability by just prohibiting children under 13 from accessing their sites.

In July 2023, KOSA and COPPA 2.0 advanced out of the Senate Commerce Committee with a unanimous vote. At press time, the bills were awaiting a hearing in the full U.S. Senate, and no movement had been taken on the Protecting Kids on Social Media Act.

### **On the state level**

In March 2023, Utah became the first state to prohibit social media use by those under 18 between the hours of 10:30 p.m. to 6:30 a.m. Utah's law also requires age verification and parental

layer of government oversight on social media users and could clash with the right to access information. Youth that belong to marginalized groups such as the LGBTQ+ community could also be negatively affected by these laws.

"The internet is like a public square. When you have a restriction that actually requires people to only participate by verifying their age by uploading a government-issued ID, that really prevents people of all ages from safely participating in the public square and public conversation," Dillon Reisman, an attorney for the American Civil Liberties Union of New Jersey, told *New Jersey Advance Media*. "If you have kids who belong to marginalized communities and don't receive support in school or from their own parents, being able to access information about health, identity, politics

online without parents acting as the gatekeeper is important."

Gaia Bernstein, a professor at Seton Hall University Law School who teaches courses on technology, privacy and policy, says the laws do not interfere with young users' ability to gather information online.

"Searching for information online has nothing to do with joining social networks," explains Professor Bernstein, who is also co-director of the Institute for Privacy Protection, and co-director of the Gibbons Institute for Law, Science and Technology at Seton Hall.

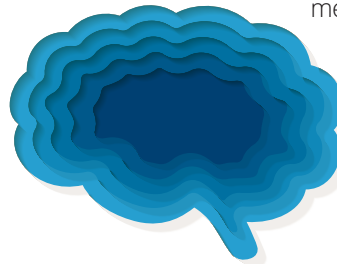
### **School districts take to the courts**

According to reporting from *The Wall Street Journal*, nearly 200 school districts

across the country are suing social media companies for the alleged harm they have on children.

In New Jersey, school districts in Chatham, Matawan-Aberdeen and Watchung are suing to recoup money spent to provide extra mental health services to students they claim were harmed by the platforms. Chatham Superintendent Michael LaSusa told nj.com his district spends \$1 million annually for additional mental health treatment for its students, an added expense he believes is due to social media usage.

Professor Bernstein says the lawsuits fall under the public nuisance theory, a broad legal doctrine regarding any conduct said to interfere with the



**CONTINUED ON PAGE 8**

## **Can't Stop Scrolling**

In October 2023 New Jersey joined more than 40 states suing Meta, the parent company of Facebook and Instagram, for alleged harm to young people. The suit claims Meta intentionally hooked users and wrongly assured the public that their features were safe and appropriate for children.

Gaia Bernstein, a professor at Seton Hall University Law School and author of the book, *Unwired: Gaining Control Over Addictive Technologies*, says addictive features such as infinite scrolling, which keeps users endlessly peering through the site, and intermittent rewards, such as likes and comments, are designed to maximize time on the site.

"Social media companies have no incentive to limit the time we spend online because the whole business model is based on collecting our data," she says. "For that they need to have us online as long as possible to sell advertising."

### **It's addictive**

In September 2020, Tim Kendall, a former Facebook executive testified before Congress during a hearing about online extremism.

"We sought to mine as much human attention as possible and turn it into historically unprecedented profits," Kendall said in his testimony. "To do this, we didn't simply create something useful and fun. We took a page from Big Tobacco's playbook, working to make our offering addictive at the outset."

One New Jersey teen told New Jersey Monitor, "The **algorithm**, it curates to what you like....The addicting thing is that there's always something endlessly there, so you keep scrolling."

Expecting social media companies to self-regulate will not work, Professor Bernstein maintains. Regulation, however, can be part of the solution, she says, especially if the laws impose a "duty of care" on social media companies. Duty of care is a legal obligation that requires individuals or companies to adhere to legal and ethical standards in order not to cause harm to others.

Professor Bernstein also suggests including a rating for addictiveness on sites. These ratings would be similar to how video games are rated for age appropriateness and violence. Social media companies could also change their business model from free to subscription-based or a pay-as-you-go plan, she says. Her reasoning is that if kids have to pay to be on social media networks they will "think much more carefully about how much time they spend on them." She is also skeptical about the effectiveness of parental permission, surmising that children will find a way around it.

"It's very difficult to tell a kid they can't be on Instagram when all their friends are on Instagram," Professor Bernstein says.—*Maria Wood*



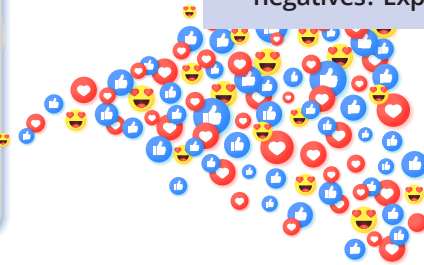
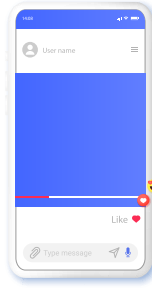
\$100,000 in 2022 due to exposure he receives on the app.

Prior to Chew's congressional testimony, many TikTok influencers gathered in Washington, D.C. at an event coordinated by TikTok. It was a chance for them to express what TikTok means for them and what the consequences of a potential ban would be.

One fashion and beauty influencer, Janette Ok, who has 1.7 million followers, told *Fortune* magazine that she is able to make a full-time career from her TikTok videos and partnerships she's made through the app.

Emily Foster, who designs stuffed animals she calls "stuffies," told CNBC that other social media platforms don't compare to TikTok in terms of exposure. Foster explained that her first TikTok video received 1,000 views, giving her enough exposure to expand her business. Today, she has 250,000 followers and one recent video received 500,000 views. She told CNBC that beyond the money she makes, she worries about losing her following if TikTok is banned on a national scale.

"You're never quite alone. It means a lot," Foster told CNBC. "I'm stressed about potentially losing sales, potentially losing customers, but it's more so just losing a community that'll break my heart." 🛠️



### DISCUSSION QUESTIONS



1. What do you think about the national security concerns surrounding TikTok? Are they warranted? Are they exaggerated? Explain your answer.
2. List the positive and negative aspects of TikTok. Do the positives outweigh the negatives? Explain in detail.

## Lawmakers CONTINUED FROM PAGE 7

rights of the public. Under this theory, parties not directly harmed by an action can sue, she explains, and points out that it was used when states sued the tobacco companies to recoup the cost of providing healthcare to smokers.

Some legal scholars are not convinced that social media companies can be held liable for the cost of providing mental health services.

"Think about all the things that are social ills that manifest themselves on school property—drugs, political discord, domestic violence," Eric Goldman, co-director of the High Tech Law Institute

at Santa Clara University in California, told Law.com. "Can schools sue all the potential sources of those social ills for nuisance?"

Eugene Volokh, a law professor at UCLA and an expert on First Amendment issues, is also skeptical.

"Providing recommendations of videos you might watch, providing social media services where people can communicate with each other, is generally protected by the First Amendment," Professor Volokh told *Education Week*. "The government generally can't impose liability on

publishers for supposedly publishing material that causes some of the users to be psychologically harmed. You can't sue a movie studio for putting out a movie that is bad for some small fraction of the audience."

Professor Bernstein says "there is no magic bullet" to solving the issue of kids online. "We are not going back to the 20th century with no screens," she says. "The goal is to have a healthier online/offline experience." 🛠️

### DISCUSSION QUESTIONS



1. The Surgeon General says the nation is in a "youth mental health crisis." What do you do to promote your mental health? Do you have coping skills if you feel down?
2. Choose one of these statements to defend: 1. Limiting time spent on social media is beneficial. 2. Limiting time spent on social media is not necessary. Explain your answer in detail.
3. Read the sidebar "Can't Stop Scrolling" on page 7. If you had to pay for social media, whether with a subscription or a pay-as-you-go plan, how would that affect the hours you spend on social media platforms? What do you think you might do instead? Explain your answer.

## GLOSSARY

**algorithm**—a set of rules to be followed in calculations.

**arbitrary**—in legal terms, lacking logical reason.

**bipartisan**—supported by two political parties.

**capricious**—fickle. Liable to sudden changes.

**injunction**—an order of the court that compels someone to do something or stops them from doing something.