

# Establishing Social Media Guidelines

Social media can be a great tool to inform the public of what is happening in the community. It can also establish a public forum giving citizens First Amendment Rights allowing them to voice opinions both in favor and critical of governmental operations on your site. Monitoring social media then becomes a balancing act of competing rights and obligations. Here are a few tips to navigate what can become a social media minefield.

## Establish who has authority to speak on behalf of the entity and on what platform by ordinance or policy.

As the Supreme Court held last year in *Lindke v. Freed*, governmental employees who choose to post about work-related items on their personal platforms can be held liable for violating the First Amendment by blocking comments and individuals if they have actual authority from the entity to make such posts.

Establishing who has authority and on what platforms protects not only the entity but also the employee by establishing a strong presumption that any employee who posts on topics related to entity operations is doing so as a private citizen and not in their capacity as a governmental representative.

## Determine if you are going to allow comments on your social media sites.

If your goal with a social media site is to simply inform rather than solicit feedback, consider turning off any comments feature. This removes any possibility of inviting discourse and creating a public forum.

If you allow comments on your social media sites, you create either a designated public forum or a limited public forum, depending on the restrictions placed on the site. Examples may be that the general entity site is a designated public forum while the police department site is limited only to comments regarding the police department. Under either forum, the entity can create reasonable restrictions, while a limited forum gives the added ability to filter out off-topic discussions.

## Meticulously monitor filters for content neutrality.

It is perfectly appropriate to place content-neutral filters on governmental social media sites. Prohibitions on language that is vulgar, obscene, commercial, defamatory, off-topic, and the like are generally acceptable. It is important to manually review any content that is blocked to ensure content neutrality. Blocking content that is unfavorable and off-topic while allowing favorable off-topic content can give rise to a First Amendment claim. Blocking all posts from an individual for repeated violations of the policy can be legally treacherous so consult your attorney before making any such decision.

## Establish disclaimers on your sites.

If your individual departments have their own social media presence, make sure they are following the standards set for the entire entity. Disclaimers stating that these are the official sites of the entity and only matters posted herein are the product of the entity will create a presumption that any other posts are outside of official business and therefore represent the actions/opinions of the poster, not the entity itself.

Utilizing social media can be an effective way to inform and communicate with the citizenry. Be mindful that not everyone will be content with your decisions and take to your social media sites to voice their displeasure. Learning how to cope with these issues can make you for effective and on the right side of the legal scales.

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