

Building Local Government Social Media Policies

Excerpts regarding elected official and government use of social media (page 6-8):

Guidelines for elected official use of social media

Elected officials' use of the government's official social media or their personal or professional social media can raise many of the same risks just discussed with regard to employees. Elected officials who use the city's official social media should be subject to the same requirements as employees. (For open meetings purposes, discussed below, they may not want to use the official social media.) Many local governments have codes of ethics for elected officials, sometimes combined with the code for employees, which can be adopted by reference into the social media policy.

A risk that is different for elected officials is possible violation of the state's open meetings laws through the use of social media. A quorum of lawmakers holding a discussion about public business through social media may constitute a meeting that is subject to the open meetings law. This could happen through the official government social media, and some governments consequently prohibit elected officials from participating in their official social media. Equally problematic is elected officials' use of their own social media to communicate in their official capacity with members of the public. Informal communication with constituents is generally acceptable, but discussion of public business is risky, especially if it involves other elected officials. The dynamic nature of social media and the sheer volume of posts may make it difficult to track who is involved in the discussion and detect when the open meetings line has been crossed.

Another potential risk associated with elected official use of social media is use of government resources for political purposes. Elected officials are increasingly using social media for campaign purposes. Elected officials who use the same social media for communicating with constituents as they do to campaign risk violating the law against using government resources for political purposes.

To address these risks, consider including in the social media policy:

- Recognition that elected official use of social media to discuss public business may violate the open meetings law.
- A prohibition against elected officials using any social media (personal, professional or the government's official social media) to discuss public business.
- A requirement that a social media site used by an elected official to communicate with constituents include a link back to the city's official website for detailed information.
- A requirement that elected officials who use social media for campaigning establish separate social media for that purpose and not access that social media through government technology.

Public comment on the government's official social media

Some governments use their social media as a one-way communication tool to flow information to members of the public. Those governments disable comment features on their social media. Others view social media as an opportunity to receive information and feedback from the public and enhance operations. For example, members of the public might be encouraged to post a report of potholes, rather than calling.

The benefits of public comments have accompanying risks. A member of the public may post content that is inappropriate by being off-topic, defamatory, harassing, obscene or pornographic, criminal, or commercial. Or a citizen may just post an opinion that is critical about some aspect of the local government.

The risks of permitting public comments include:

- Failure to act on information reported by a member of the public resulting in harm to someone. If a member of the public posts a comment about a dangerous condition on public property, the government has notice. If it does not take action to address the dangerous condition and someone is injured or killed, a lawsuit may result.
- Although it would seem obvious that posts to social media are not private, members of the public who post may be disturbed if their comments are disclosed as public records under the state's open records law.

Other significant risks associated with public comment arise from what the government does (or does not do) to manage it. These include:

- Failing to monitor and remove inappropriate comment.
- Government employees responding inappropriately (in a harassing manner) to public comments.
- Violating the free speech rights of members of the public by removing comment based on the viewpoint or opinion expressed.

To address these risks, consider including in the social media policy:

- A public comment policy for posting on the social media site that does the following:
 - Identifies viewpoint neutral criteria that will be used to determine when a comment or link posted by a member of the public will be removed, which can include comments that are off-topic, obscene or pornographic, defamatory, harassing, commercial, criminal, political, or that violate the intellectual property rights of others.
 - Reserves the right to remove posts that violate the policy.
 - Gives notice that the comments are monitored only during business hours, and thus information conveyed after hours will not be received until the next business day.
 - Gives notice that comments are subject to disclosure as public records.
- Procedures and responsibility for monitoring of public comments and removal of inappropriate comments in accordance with the public comment policy.
- Procedures and responsibility for monitoring, responding to, and taking timely action to act upon information conveyed via public comments.