Social Media and the Municipal Employer

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Objectives

• Why should you have a social media policy?
• What should be in it?
• What activity can be regulated?
• What happens when an employee violates the policy?
IMPORTANCE OF A SOCIAL MEDIA POLICY
What is Social Media?

• Electronic communication through which users create online communities to share information, ideas, personal messages, and other content.

• Examples
  • Facebook
  • Twitter
  • Instagram
  • LinkedIn
  • Snapchat
Social Media Here to Stay

Facebook, YouTube continue to be the most widely used online platforms among U.S. adults

% of U.S. adults who say they ever use the following online platforms or messaging apps online or on their cellphone

Facebook 69
YouTube 73%

Instagram 37
Pinterest 28
LinkedIn 27
Snapchat 24
Twitter 22
WhatsApp 20
Reddit 11

Note: Pre-2018 telephone poll data is not available for YouTube, Snapchat and WhatsApp. Comparable trend data is not available for Reddit.

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Who is Using Social Media?

Snapchat and Instagram are especially popular among 18- to 24-year-olds

% of U.S. adults in each age group who say they ever use ...

Note: Respondents who did not give an answer are not shown. Source: Survey conducted Jan. 8-Feb. 7, 2019.
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Use of Social Media at Work

Workers use social media at work for many reasons; taking a mental break is one of the most common

% of workers who ever use social media platforms to ...

- Take a mental break from work: 34%
- Connect with friends and family at work: 27%
- Make or support professional connections: 24%
- Get information that helps solve problems at work: 20%
- Build or strengthen personal relationships with coworkers: 17%
- Learn about someone they work with: 17%
- Ask work-related questions of people outside their organization: 12%
- Ask work-related questions of people inside their organization: 12%

Source: Survey conducted Sept. 11-21, 2014. “Social Media and the Workplace.”
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The Value of Social Media at Work

Pros
• Networking
• Boost Morale
• Information resource
• Job improvement

Cons
• Liability exposure
• Decreased Productivity
• Poor reflection on employer
Impact of Social Media Policy

Workers whose employers have at-work social media policy are less likely to use social media for personal reasons while on the job.

% of workers who indicate that they ever use social media while on the job in order to...

- Among those who have a workplace policy about social media use at work:
  - Take a mental break from work: 30%
  - Connect with friends and family at work: 20%
  - Get information that helps solve problems at work: 16%

- Among those who do not have a workplace policy about social media use at work:
  - Take a mental break from work: 40%
  - Connect with friends and family at work: 35%
  - Get information that helps solve problems at work: 25%

Source: Survey conducted Sept. 11-21, 2014. “Social Media and the Workplace.” PEW RESEARCH CENTER
Security Risks

- Viruses
- Malware
- Confidentiality
Effective Social Media Policies

• Regulate use of social media
• Address employee expectation of privacy
• Provide clear guidelines
• Conform to employee protections
Regulate Use of Social Media

• Limit use of municipal resources to work related tasks
• Prohibit posting as representatives of municipality without prior authorization
• Make clear that comments on municipal related issues in a non-official capacity are own opinion
• Restrict personal use of social media during work hours
Confidential Information

- Employees do not have right to post confidential information
- Ensure employees understand what information is considered confidential
  - HIPAA
  - FERPA
  - Personnel information
Expectation of Privacy

• Required to advise employees activity may be monitored (CGS 31-48d)

• No presumption of privacy:
  • Internet use is not personal and private
  • Municipality reserves the right to monitor and/or log all Internet use without notice
  • Users have no expectation of privacy in the use of municipal technology systems, including but not limited to computers, tablets, and/or cell phones
Inform Employees

- Use plain language
- Provide copy of policy to each employee and require acknowledgement of receipt of policy for inclusion in employee personnel file
- Make policy accessible
- Reference interaction with other applicable policies and procedures, such as Ethics Policies, Internet Policies, CBA provisions, Civil Service Rules and Regulations, departmental policies, Freedom of Information and records retention requirements
Social Media as Protected Activity

National Labor Relations Act (“NLRA”)

- Section 7 gives employees the right “to engage in ...concerted activity for the purpose of ...mutual aid and protection
- Section 8(a)(1) prohibits employers from interfering with Section 7 rights

Municipal Employee Relations Act (“MERA”)

- Prohibited practice for employer to take adverse action against employee as method of retaliation for engaging in protected concerted activities
Access to Employee Information

Conn. Gen. Stat. 31-40x

- Restricts employers ability to gain access to social media, email and other personal online accounts of employees and applicants
- Does not apply to any account “created, maintained, used or accessed by the employer”
- Does not apply to pre-employment investigation of law enforcement personnel
- Does not apply to workplace investigations based on receipt of specific information about activity on personal account.
Freedom of Speech: Constitutional Protections

- Federal: Protected if speech-
  - Is not pursuant to the employee’s official duties
  - Involves a matter of public concern and
  - Employee’s interests to speak as a citizen outweighs employer’s interests in promoting the efficiency of the public service it performs

- CT Carve Out: Speech pursuant to official duties protected where it involves a comment on official dishonesty, deliberately unconstitutional action, other serious wrongdoing, or threats to health and safety
Freedom of Speech: Conn. Gen. Stat. 31-51q

Prohibits discipline or discharge where employee exercises rights of free speech under First Amendment or State Constitution, provided

- such activity does not *substantially or materially* interfere with
  - employee's bona fide job performance or
  - working relationship between the employee and the employer
Connecticut Fair Employment Practices Act (CFEPA) prohibits discrimination in hiring and employment based on enumerated protected classes, including race, religion, age, sex, gender identity or expression, and disability.

Potential pitfalls
- Offensive, harassing comments about co-workers
- Search of social media of applicant
Questions?
Contact Us

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