



Tips for Handling Difficult Social Media Interactions

Elected officials typically run for office to better their community. In order to see this goal to fruition, elected officials seek tools to reach their constituents in an effective manner. One tool that elected officials have at their disposal is social media. Social media takes many forms, but all platforms typically share the following common traits: (1) communication is done electronically or digitally; (2) the platform is widely accessible to the public; and (3) the platform is interactive.

Whether using Facebook, Twitter, Instagram, webpages, or other platforms, social media has benefits that cities and their elected officials can utilize. First, cities and their officials can instantly broadcast notices and information to their residents. Second, cities and officials can receive feedback from residents on any topic. Lastly, social media is fast, affordable, and an effective alternative to other mediums of communication.

However, elected officials often find the main pitfall that comes with social media is how to properly manage and handle challenging interactions with members of the public. Elected officials must exercise caution in their interactions with members of the public while on social media platforms.

GOVERNMENT OR PRIVATE?

Generally, the initial reaction in handling a difficult interaction on a social media page is to limit and restrict comments, or perhaps even blocking individual members of the public from the account. Prior to restricting individuals interacting on a social media account, the public official should take the following steps:

- Identify whether it is a private account or a designated government/public account; and
- Regardless of the designation, identify whether the posted content is personal in nature or public business/public promotion.

Public officials are cautioned that although their social media account may have been created in a personal capacity, there could be instances when the account will be categorized by the legal

ONLINE RESOURCES

MODEL SOCIAL MEDIA POLICY

This model policy addresses legal risks such as violations of public records law and protections on free speech. This model does not address the off-duty private use of social media accounts that do not relate to public business. Available at tinyurl.com/model-sm-policy



OREGON MUNICIPAL HANDBOOK – Chapter 28: First Amendment Law

This Handbook chapter focuses on the First Amendment to the U.S. Constitution. Topics include what is protected under the First Amendment, who it applies to, and enforcement. Find it online at: tinyurl.com/handbook-28.

system as a government/public account because of the manner in which the account is used. It is important for a public official to distinguish whether an account is purely private, or if an account is government/public.

If a social media account is deemed to be public (i.e. government managed), the members of the public who interact with the account have First Amendment free speech protections under the federal and state constitutions. Unfortunately, Oregon courts have yet to interpret and provide guidance on what a government account is. However, best practice is to err on the side of

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caution and assume that if the social media account is used for any type of government business or public promotion, that it will be deemed to be a government account.

IMPOSING RESTRICTIONS

The Oregon Constitution has been interpreted to mostly prohibit the government (and its officials) from implementing content-based restrictions on public speech, whether that speech is verbal or written. This content-based prohibition applies to social media accounts that are governmental in nature (this is determined by usage and content). Any restriction on speech must be content-neutral. This means that an official might be able to prohibit outcomes, such as disruptions, but the official cannot do so by targeting a specific type of content. While cities and city officials are encouraged to verify any type of restriction with their attorney prior to taking action, since the law is fluid and nuanced, the following is a list of restrictions that are likely permissible:

- Removing actual disruptive behavior such as high frequency repetitive posting or posting that is unintelligible;
- Banning the promotion of a hostile or unhealthy online environment such as postings that are sexually explicit or depict excessive violence;
- Banning the encouragement or promotion of criminal activity; and
- Banning advertising.

Another avenue in which officials can stay clear of difficult social media interactions is to disable all commenting options on posts. This restriction avoids exposure to constitutional claims but still allows for the delivery of information to the public.

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OTHER TIPS FOR HANDLING ONLINE INTERACTIONS

In addition to avoiding the constitutional free speech pitfalls highlighted above, the following are actions public officials should avoid doing on their social media accounts:

- Sending incorrect information;
- Making commitments the official cannot follow through on;
- Issuing long statements;
- Blaming others; and
- Engaging with negative comments and online “trolls.”

Ultimately, public officials should not be scared away from utilizing social media platforms. However, public officials should be mindful of how they designate their social media accounts and what type of content they disseminate. If public officials choose to moderate the actions of individuals on their social media accounts, they must also be aware that the moderation may expose them to liability and potential legal implications. ■

