



Policy # Social Networking	Related Policies Photography and Digital Imagery; Computer, Electronic Communications, and Internet Usage Policy
<i>This policy is for internal use only and does not enlarge an employee's legal duty or civil liability in any way. This policy should not be construed as creating duty to act or a higher duty of care, with respect to third party civil claims against employees or the department. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Applicable State Statutes:	
OSHA:	
NFPA Standard:	
Date Implemented:	Review Date:

PURPOSE: The purpose of this policy is to provide guidance and direction to members of the department with respect to the use of the Internet, the World Wide Web, and social media as a medium of communication that impacts the efficiency and morale of the department. This guidance is intended to help clarify the boundaries between appropriate and inappropriate use of social media by fire department personnel in a way that helps to protect members' careers while preserving the public's confidence in the department. Nothing in this policy is intended to unlawfully restrict a member's right to:

- discuss as a private citizen, matters of public concern to the extent protected by the First Amendment, nor
- engage in concerted activity with co-workers to the extent protected by collective bargaining laws.

POLICY: The proper functioning of any fire and emergency service organization depends upon the public's confidence and trust in the individual firefighters, officers, and department as a whole to carry out our mission. Any matter which brings discredit to individual



firefighters, officers, or the department has the corresponding effect of reducing public confidence and trust in our organization, thus impeding our ability to work with and serve the public. Professionalism is a significant factor in high level performance which in turn builds the public's confidence and trust.

In addition, when the public calls upon us for help they have a right to expect that we will keep the details of their private lives and affairs confidential, and not release that information except as permitted by law. The public also has a right to expect our services will be provided to all members of the community without regard to age, race, religion, sex, sexual orientation, gender identity or expressions, genetic information, disability, national origin, ethnicity, citizenship, marital status, military service, or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances. When the public lacks confidence in our ability to provide our services, they may delay reporting emergencies or refuse to report emergencies resulting in unnecessary death and destruction, thereby causing actual harm and/or disruption to our mission and function.

It is the policy of this department to respect the Constitutional and statutory rights of all members and the public. While all members have the right to use personal social networking pages or sites, members are public servants who are held to a higher standard than the general public with regard to standards of conduct and ethics. Members have an affirmative obligation while using social media to ensure they do not become viewed as spokespersons for the department except when duly authorized.

It is the policy of this department that all members will maintain a level of professionalism in both on-duty and off-duty conduct that is consistent with the honorable mission of our department, and in a way that will not cause actual harm or disruption to the mission and functions of the department.

SCOPE: This policy applies to all _____ [career personnel, full-time employees, volunteers, uniformed members] of _____ without regard to whether their social networking activity is conducted in or outside the workplace, while on or off-duty, or anonymously or through the use of pseudonyms.

DECISION POINT: The Scope statement should be edited as appropriate to address any limitations upon the application of the policy, such as if this policy only applies to uniformed members because a separate policy applies to non-uniformed members, or career personnel because a separate policy applies to volunteers, etc. This policy is directed at employee use of personal social media. A separate policy would be necessary to address the use of official department social media such as posting on the FDs web site, Facebook page, Twitter account, etc.



DEFINITIONS:

Department owned images or audio recordings - Photographs, digital photographs, digital images, video recordings, audio recordings or electronic files containing a graphic image or series of images, as well as any digital reproductions or copies of such photographs, digital photographs, digital images, video recordings, audio recordings, or files, owned by the fire department by virtue of the fact that they were taken and/or created in the course of the fire department's business. This definition expressly includes the live streaming of imagery whether or not recorded at the time of creation.

Harassment: is the systematic and/or continued unwelcome actions of one party or group intended to demean, disparage, threaten, intimidate, bully, or alarm another party or group.

Hate speech: is speech that attacks a person or group on the basis of attributes including age, race, religion, sex, sexual orientation, gender identity or expressions, genetic information, disability, national origin, ethnicity, citizenship, marital status, military service, or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances, indicating a level of intolerance or hostility that is incompatible with a commitment to serve all members of the community. Included is speech that threatens violence or harm directed toward any person or group; encourages others to commit violence or harm directed toward any person or group; or threatens to or encourages others to withhold public safety services from any person or group.

Social media: web-based technology tools that enable people to communicate electronically via the Internet and the World Wide Web to share information and resources. Social media can include the sharing and exchange of information in the form of electronic data, text, audio, video, images, podcasts, web casts, and other multimedia electronic communications

Social networking: the act of connecting to others through the use of social media

Speech: Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication.

Spokesperson for the department: a member of the department who makes a statement:

- On behalf of the department;
- In his/her capacity as an employee or member of the department; or
- In such a way that it may reasonably be attributed to the department

INTRODUCTION



Fire department members are cautioned that while acting as a spokesperson for the fire department, including when engaged in social networking in such a way that their speech may reasonably be attributed to the department, their speech is not entitled to First Amendment protection. This may involve speech that occurs both on-duty and off-duty. For this reason, members should ensure their personal social networking activities are conducted as private citizens.

PROCEDURE:

While engaged in social networking activities:

1. No member shall post, disseminate, or in any other way broadcast as a **private citizen** on a **matter of public concern** in such a way as to cause actual harm or disruption to the mission and functions of the department. Examples of conduct that courts have concluded may cause actual harm or disruption to the mission and functions of the department include posts that:
 - impair harmony among co-workers, neighboring departments, and operational partners,
 - has a detrimental impact on close working relationships among coworkers,
 - has a detrimental impact on the relations between the department and the community we protect, including speech that threatens violence or harm directed toward any person or group; encourages others to commit violence or harm directed toward any person or group; or threatens to or encourages others to withhold public safety services from any person or group,
 - are contrary to the department's regulations and harmful to the proper functioning of the department.

DECISION POINT: This provision is intended to make this policy compliant with the First Amendment. However, local counsel should review it for consistency with overall management strategy.

2. Members may post, disseminate or broadcast on a **matter of public concern** as a **spokesperson** for the department only with permission through chain of command. Members shall at all times exercise diligence to avoid holding themselves out as spokespersons for the department except when duly authorized. The use of departmental titles, fire department logos, fire department owned images, or identification as a member of the department in such a way as to create the impression that the member is acting as



a spokesperson for the department, or that the posting is attributable to the department, is prohibited unless duly authorized.

Use of the following in screennames or email addresses shall be considered to cause a posting or email to ***reasonably be attributed to the department***:

DECISION POINT: List examples of screennames, email addresses and identifications that may cause a firefighter to be perceived as a spokesperson: Screenname: PFD_Captain_Eng_14; PFDMedic22; email addresses/screennames that include PFD, etc.; signature lines in emails that include rank, title, and affiliation with the department. In addition this section may be expanded as appropriate to extend to web sites that include the department name, logo, patch, photos of apparatus, and/or information about the department that creates the impression that the site may be an official fire department site.

Some departments may consider requiring a disclaimer if there is any mention of department affiliation. The impact of such a requirement is questionable.

Departments should also take time during social media training to address additional examples, and ensure all member questions are addressed.

DECISION POINT: The following is a stricter version of the above section that essentially prohibits a member from identifying him/her-self in any way as a member of the department in social media. This section ***is not advisable*** in departments with collective bargaining as it may infringe on the right to engage in concerted activities with coworkers. It may also be over the line on First Amendment grounds as a prior restraint and therefore should only be considered after thorough review by local legal counsel.

*Members may post, disseminate or broadcast on a **matter of public concern** as a **spokesperson** for the department only with permission through chain of command. Members shall at all times exercise diligence to avoid holding themselves out as spokespersons for the department except when duly authorized. For this reason, when using social media, members shall not in any way represent themselves as a member of, employee of, or spokesperson for, this department without prior approval from the Fire Chief. This shall include but not be limited to:*

- a. Text which identifies this department by name, abbreviation, or reference.*
- b. Images that depict the logos, patches, badge or other identifying symbol(s) of this department.*
- c. Accounts of incidents or events which occur within this department for which the member may be viewed by the public as an official or unofficial department spokesperson.*



- d. Any other material, text, audio, video, photograph, or image which would be identifiable to this department.
- e. Use of title, rank or assignment as well as any reference to this department in any correspondence to include emails, postings, blogs, twitter, social network sites, user names, or screen names, unless the communication is of an official nature and is serving the mission of this department. This prohibition also includes signature lines in personal email accounts. An employee may seek prior department approval for such use.

NOTE: This section does not (and cannot) restrict a member from identifying themselves as a member of an employee group such as a union.

DECISION POINT: Some departments may choose to expressly authorize members to identify themselves in social media by rank, title, and/or assignment for purposes of the professional exchange of information. Departments may also choose to limit such authorization to business related social networking activities such as through business related platforms (LinkedIn, Plaxo, etc.). If allowed the above provisions need to be edited to expressly allow such use.

3. Members are **prohibited** from posting, disseminating, or broadcasting fire department matters that are **not of a public concern**, unless doing so is for the purpose of **engaging in concerted activities** relative to workplace issues. Specifically, this provision does not prohibit members from discussing terms and conditions of employment among themselves or with non-members for the purpose of engaging in concerted activities. However, members must ensure that while engaging in concerted activities they are not perceived as being a spokesperson for the department nor that the posting could be attributable to the department.

DECISION POINT: This provision is intended to make this policy compliant with the NLRB position on social media. It is our recommendation that it be included because the scope of the rights it provides are marginal, and it lessens the risk that the entire policy could be struck down as overbroad. However, local counsel should review it for consistency with overall management strategy.

4. Members shall not post, disseminate or broadcast information that is known to be **false, deceptive, libelous, slanderous, misleading or causes harm** to others, including speech that constitutes **hate speech** or **harassment**; nor shall members discuss protected or confidential matters of the department, including:
 - matters that are under investigation;
 - patient and employee information protected by HIPAA and/or medical confidentiality laws; or



- personnel matters that are protected from disclosure by law.

This provision does not prohibit members from discussing terms and conditions of employment among themselves or with non-members for the purpose of engaging in concerted activities.

5. Members shall not post, disseminate, or broadcast department owned images or audio recordings unless authorized to do so, or unless such images or audio are available to the public pursuant to the public records law. If such images or audio have been released by the department as public records, members shall ensure that their subsequent use of such information is done in their capacity as private citizens, and not as spokespersons for the department unless authorized to do so.
6. Members shall maintain an appropriate level of professionalism and conduct so as not to post, disseminate, or broadcast in a manner that causes actual harm or disruption to the mission and functions of this department. This provision is not intended to restrict the content of a posting that is protected by the First Amendment or collective bargaining laws, but rather is intended to apply to the use of vulgar, obscene, or indecent terms; the posting of materials of a pornographic nature; the use of threatening, harassing, or intimidating language; the use of speech that threatens or incites attacks on the basis of age, race, religion, sex, sexual orientation, gender identity or expressions, genetic information, disability, national origin, ethnicity, citizenship, marital status, military service, or any other legally recognized protected basis under federal, state or local laws, regulations or ordinances; or engaging in illegal activities.
7. Members are prohibited from using social media to harass, bully, discriminate, threaten violence or harm, or retaliate against a co-worker. Harassment, bullying, discrimination, making threats of violence or harm, or retaliation against a co-worker that would not be permissible in the workplace is not permissible between co-workers through social media, even if it is done off-duty, from home or using personal computers or devices.
8. Members are prohibited from using department computers for unauthorized purposes including surfing the internet or participating in social networking.

Note: This provision should be coordinated with the department's Computer Use Policy. The language here is the most restrictive possible and essentially prohibits personal use of fire department computers to access the internet, and prohibits all social networking via department computers. Departments may choose to allow some limited use of fire department internet access for personal reasons to the extent the leadership deems appropriate. As part of the training to implement this policy, members need to be educated as to the public records issues associated with on-duty use of social media.



9. Members are prohibited from engaging in social networking activities while on duty; while on fire department property; while in fire department facilities; while on or in fire department apparatus or vehicles; or while in uniform or while wearing such portion of the uniform so as to make the member identifiable as a member of this department.

DECISION POINT: This provision is the most restrictive possible and essentially prohibits social networking activities while on duty, from a FD facility/apparatus or while in uniform. Departments may choose to allow flexibility to the extent the leadership deems appropriate. Note also that a recent NLRB ruling suggests that employees may have a right to communicate with coworkers via social media while at work during “non-work time and in non-work areas.” The NLRB cites *Republic Aviation Corp. v. NLRB*, 324 U.S. 793, 803 n.10 (1945), but that case merely stands for the proposition that employees may use their own time (lunch break) to solicit other members to join the union.

As an alternative to paragraphs 8 and 9 above, departments that want to allow personnel to engage in some social media activities while on duty, but prohibits live-streaming or recording audio/video. The following alternative language is offered:

- a. *Because social media is an emerging form of communication, the department permits members to engage in limited social media activity in the workplace and/or while on duty, similar to receiving a personal text message or a telephone call of limited duration. Members choosing to do so, however, are expected and required to use proper judgment and discretion, recognizing that even very brief periods of social media activity can collectively amount to significant periods of time. Supervisors are authorized to restrict or prohibit workplace/ on-duty social media activity, as appropriate.*
- b. *Members are prohibited from engaging in personal social networking activities that involves the recording or transmission of work-related imagery or audio while on duty; while on fire department property; while in fire department facilities; while on or in fire department apparatus or vehicles; or while in uniform or while wearing such portion of the uniform so as to make the member identifiable as a member of this department. This provision does not apply to department approved recording or transmissions. As pertains to this provision, the term imagery includes still photos or video taken and posted, disseminated or broadcasted via the internet immediately or within a short period of time thereafter, as well as live streaming imagery.*
- c. *Members are further advised that social media activities that involve the posting or discussion of incidents or work-related matters online may make the communications subject to the state’s public record laws creating legal*



obligations for them and the department. To the extent such postings and discussions trigger the public records laws members are required to comply with the department's record retention policy.

- d. This provision shall not prohibit personal communications between a member and members of his/her immediate family that involve Facetime, Skype, Zoom, Google Meets, or similar platforms.*
- e. This provision shall not prohibit members from using social media to engage in concerted activities relative to workplace issues as protected by collective bargaining laws.*