

The Risk & Potential High Cost of **SOCIAL MEDIA MODERATION**

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Social media has become **the most important medium for public officials** to communicate and engage with their constituents, and even more so with the COVID-19 pandemic. The use of social media to share accurate and up to date information, clarify misinformation, celebrate good news, communicate policy, and various other functions continues to grow, with no signs of slowing.

When public officials post information on social media, they are often creating public records and a designated public forum on these platforms. When doing so, **First Amendment issues and controversies often arise**, particularly when the community expresses concern, makes an opposing viewpoint or makes accusations. It can be tempting for public officials to moderate these types of responses by blocking the user, or deleting their comments, however there are risks associated with those reactions. The ramifications of moderating or regulating social media content without a policy in place or legal justification can range from simply a bad press event to potentially damaging financial legal action and eroded public trust.

The good news is **it's not unreasonable to moderate certain content**, you just need to know how and what tools and resources are available to maintain both compliance and the trust of your online community. Below are 7 examples of the risk and high cost of moderating content gone awry for public institutions and some steps you can take to avoid similar situations.

TEXAS A&M SETTLES FOR \$75,000 OVER HIDDEN FACEBOOK POSTS

Texas A&M, one of the nation's largest public universities with more than 65,000 students, settled a First Amendment lawsuit with People for the Ethical Treatment for Animals (PETA). The lawsuit claimed the university used filters on Facebook to hide comments containing words such as "dog," "abuse" and "testing". The February 2020 settlement included the school agreeing to remove all settings blocking or filtering comments on its Facebook page and to pay PETA \$75,000 in legal fees.

VIRGINIA CHAIRWOMAN VIOLATED FIRST AMENDMENT BY FACEBOOK BLOCKING

A federal appeals court on Jan. 7, 2019 upheld a decision that a Loudoun County chairwoman violated a citizen's constitutional rights by deleting comments and blocking him on Facebook after he made allegations against the chairwoman.

OHIO SCHOOL DISTRICT SETTLES WITH WOMAN BLOCKED ON TWITTER

In February of 2020, the Parma City School District agreed to pay a financial settlement and create a new Twitter account to resolve a lawsuit filed by the parent of a student after a district employee blocked her.

COLORADO LAWMAKER FINANCIALLY SETTLES SUIT OVER SOCIAL MEDIA BLOCKING

A Colorado state lawmaker who was sued in federal court by the ACLU has agreed to unblock a constituent on Facebook and Twitter. In addition to paying \$25,000 in attorney fees, the lawmaker also agreed to no longer block people on social media as part of a settlement.

FLORIDA COMMISSIONER & CRITIC SETTLE LAWSUIT ON TWITTER ACCESS

A city commissioner and one of his critics settled a federal lawsuit in February 2020 over the commissioner blocking the critic from his Twitter account. In the settlement, the city was found financially responsible for the critic's legal fees.

LAWSUIT AGAINST MICHIGAN CITY OFFICIAL OVER DELETED COMMENTS

A federal lawsuit has been filed against a city manager of the City of Port Huron for deleting Facebook comments of residents who have questioned and been critical of the city government's response to the COVID-19 pandemic crisis. The suit seeks a court order to permanently halt the city manager's delete-and-ban policy.

TWITTER BLOCK COSTS WISCONSIN TAXPAYERS \$200,000

In August 2019, Wisconsin state officials agreed to make a \$200,000 payment to a non-profit group after a federal judge determined that an assembly speaker and representative had infringed on the group's First Amendment rights by blocking them on Twitter.

The fear of lawsuits or bad press like these examples illustrate may have you feeling like you can't maintain a productive dialogue on social media, but there are 3 easy steps you can take to ensure you are doing so in a safe and compliant manner:

- **Establish a social media policy:** Whether you are just starting out with social media or already have a robust online presence, a solid policy is essential to protecting your agency. Download this free [Social Media Policy Template](#) to get started.
- **Create a comment moderation guide:** A sound commenting policy is all about balance. It should allow moderation of inappropriate and irrelevant content, while still respecting relevant opinions and First Amendment concerns. ArchiveSocial's [Comment Moderation Guide](#) provides insights and infographics to help you and your team manage and moderate online conversations.
- **Capture, monitor and retain your social media:** Social media is open 24/7 and no policy or moderator is foolproof, so protect your agency by archiving records of every post and comment and monitoring for key terms and phrases for quick resolution. Learn more about social media archiving compliance and keyword monitoring with our [ArchiveSocial Solution Overview](#).

If you're interested in learning more about ArchiveSocial or our tools, resources and best practices on how to engage with your communities in a rich and compliant manner, [get in touch with us today](#).



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