



How to talk to your elected officials about **SOCIAL MEDIA**



Clarify the Difference Between a Profile & Page

- A **profile** is an account private individuals use to represent themselves on Facebook.
- A **page** is an extension of a profile that is used to represent a business, government, or public figure. A page allows for access to government (which is limited when using a profile as you have to be "friends" to see what's there). Also a page has additional management & reporting tools, messaging & capture capabilities, and is able to be adequately archived for public record law purposes (unlike profiles).
- Public officials should create Pages to represent themselves as public figures while in office to separate their personal posts from their official posts. City & District-related matters & all public records generated from those pages are then easily archived & not intermingled with personal data not related to City or District matters.



Train on Your Social Media Policy

The official social media page for the Office is owned by your public entity, not your elected official (e.g. Facebook page for the Office of the Mayor). Therefore, officials need to be aware of how to conduct business on the page in accordance with your social media policy. Be sure to educate the official on the risks of comment moderation, other First Amendment concerns, and public records law. Make sure your social media policy is published on the page and followed by your official.



Establish Policies on What Elected Officials Can & Cannot Do on Their Private Pages

Make sure your elected officials are aware of how to behave responsibly on social media so that they don't expose your public entity to risk. This includes officials not using their social media account as an extension of your office to carry out their official duties or solicit public views about support. A policy for your elected-officials should include:

- Information considered privileged or confidential under State General Statutes
- Public Records Law, Local Government Retention Schedules, & Digital Records Policies & Guidelines
- How best to communicate with City Departments to avoid creating public records on City employees' personal accounts
- Avoiding conflicts of Interest
- Adding disclaimers to personal profiles about personal views that do not reflect the City
- Avoiding Open Meetings Law violations through inadvertent social media quorums



Make Sure You're Archiving

In all 50 states, social media is a public record. And your public entity is responsible for all of your public officials social media pages, and the records requests that come with them. But as social media happens in real-time, it can be impossible to keep up with. And the social networks aren't responsible to keep any of your data. So if you don't retain content (even if it was edited or deleted) you may lose it forever. That's why automatically archiving your content & meta-data for every post and comment on your page, and your constituent pages, across all your accounts, is essential to remaining compliant & risk-free.

What
we've
seen
related to
elections

IN THE NEWS



"Montgomery County Elected Official Sued for Social Media Snubs"

A lawsuit was filed against Montgomery County Commissioner Joe Gale, by several people & two companies who claim he blocked their accounts on Twitter & deleted their comments on Facebook, violating their First Amendment right to free speech. This happened after Gale posted a statement calling anti-police brutality and Black Lives Matter protests "urban domestic terror". Posts & comments made by Agencies and their officials, as well as replies to these posts and comments, are public record, and may be subject to public records laws.

NBCPhiladelphia.com, "Montgomery County Elected Official Sued for Social Media Snubs", July 1, 2020



"Woman sues a Kansas city & mayor over deleted Facebook posts"

Tracy Chambless' sued Scott City and its mayor, accusing them of violating free-speech rights, stating they "engaged in viewpoint discrimination by removing public comments critical of the city and its agencies" from their Facebook page. The criticism was over their response to the coronavirus. The lawsuit seeks \$75k in damages and a court order to prohibit the mayor & city from removing or blocking comments on social media.

The Wichita Eagle, "Woman sues a Kansas city and mayor over deleted Facebook posts on COVID-19 response", May 25, 2020



"Federal Lawsuits Filed Against Savannah Mayor Over Free Speech Violations"

A second federal lawsuit has been filed against Savannah Mayor Van Johnson alleging free speech concerns and the First Amendment for censoring a woman and more than 200 others on his official 'Mayor Van Johnson' communications pages where he conducts official city business. When Johnson refused to unblock these users, they went to court. There, the courts established that citizens have a First Amendment right to interact with government officials in a political forum. Public officials are held accountable the same way their agencies are.

AllOnGeorgia, "Federal Lawsuits Filed Against Savannah Mayor Over Free Speech Violations", July 24, 2020



"Records request filed for superintendent blocking on Twitter"

Superintendent of Elmhurst School District 205, Dave Moyer, blocked users from his Twitter account, which is linked to the school district's website. A public records request was filed with the school district to get the list of Twitter users blocked from Moyer's account. School district social media posts & messages, as well as replies and comments to these posts, are public record and may be subject to public record laws, eDiscovery requests, 1st Amendment protections, and other related lawsuits.

Patch.com, "Who Is D-205 Leader Blocking on Twitter?", Aug 31, 2020

