

Wisconsin Human Resources Handbook

Chapter 480

Social Media Usage in State Government

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Sec. 480.010 Introduction

The State of Wisconsin permits the use of the internet, including social media sites, for legitimate business purposes that enhance the State's or a specific agency's mission, vision, values, and goals. This policy provides guidance on two issues impacting the State's workforce as related to social media: 1) professional or work-related posting on social media on behalf of an agency of the State, and 2) personal use of social media which impacts or references the State of Wisconsin, its agencies, or its employees. This policy applies regardless of whether the postings or use is done using state electronic devices.

This chapter is not meant to infringe upon an individual's personal interaction or commentary online or rights protected by federal or state law. This chapter sets the standards for agencies implementing their social media policy and applies to all agencies of the State of Wisconsin and its employees, including permanent, project, unclassified, limited term, and seasonal staff, and agents including contractors, interns, externs, and volunteers.

Sec. 480.020 Statutory and Rule Authority

1. "No state public official may intentionally use or disclose information gained in the course of or by reason of his or her official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family, or for any other person, if the information has not been communicated to the public or is not public information." s. 19.45(4), Wis. Stats.
2. "No state public official may use or attempt to use the public position held by the public official to influence or gain unlawful benefits, advantages or privileges personally or for others." s. 19.45(5), Wis. Stats.
3. Section 230.04 (13m), Wis. Stats. provides in part, "[t]he administrator shall establish standards for progressive discipline plans... The standards established under this subsection shall allow an appointing authority to accelerate progressive discipline if the inadequacy, unsuitability, or inferiority of the personal conduct or work performance for which an employee is being disciplined is severe."
4. Section 230.34(1)(a), Wis. Stats., provides in part, "It is just cause to remove, suspend without pay, discharge, reduce the base pay of, or demote an employee without imposing progressive discipline for any of the following conduct:
 1. While on duty, harassing a person.
 8. Misuse or abuse of agency property, including the intentional use of the agency's equipment to download, view, solicit, seek, display, or distribute pornographic material.
 9. A serious violation of the code of ethics established by the director under s. 19.45(11)(a), as determined by the director."

5. The State of Wisconsin Code of Ethics outlines that, “[t]he observance of high moral and ethical standards by its employees is essential to the conduct of free government. The employee holds his or her position as a public trust, and any effort to realize personal gain through official conduct is a violation of that trust.” s. ER-MRS 24.02(1), Wis. Adm. Code

Sec. 480.030 Definitions

Employee: For the purposes of this chapter, the term employee includes permanent, project, unclassified, limited term, and seasonal staff in addition to agents of state agencies, including contractors, interns, externs, and volunteers who engage in responsibilities for an agency.

Social Media: A category of internet-based resources that integrate user-generated content and user participation. This includes, but is not limited to, social networking sites (e.g., Facebook, Twitter, LinkedIn, etc.), microblogging sites (e.g., Tumblr, Nixle, RAVE, etc.), photo and video sharing sites (e.g., Flickr, YouTube, Instagram, Snapchat, TiKToK, etc.) wikis (e.g., Wikipedia, etc.), blogs, online forums and discussion boards (including commenting online using media websites), and news sites (e.g., Digg, Reddit, etc.).

Sec. 480.040 Professional Use of Social Media

Social media can be a valuable tool for communicating agency missions and messages with the public. Agencies must establish procedures to review and approve any requests from employees to use social media, social networking, or services or tools to support or enhance activities being undertaken by the agency in its official capacity.

The following guiding principles should be considered by agencies when using public-facing social media services in an official capacity on behalf of an agency or the State of Wisconsin:

1. Any agency related information that is not considered public information shall not be discussed. The discussion of sensitive, proprietary, or confidential information is strictly prohibited. This is true even if the site is not publicly viewable because the site owner will have access to the information.
2. When an employee is representing an agency in an official capacity, the agency is responsible for the content published on any forms of social media. Assume that any content posted may be considered in the public domain, will be available for a long period of time, and can be published or discussed in the media.
3. Employees are expected to communicate professionally and comply with all applicable workplace conduct policies and rules.
4. Content expressed in social media venues should fall within the employee’s professional role within the agency, be consistent across accounts, and with the agency’s values and professional standards.
5. Messages and content shall:
 - a) Observe and abide by all copyright, trademark, and service mark restrictions in posting materials to electronic media.
 - b) Comply with **all** federal and state laws, including HIPAA and other privacy laws.
 - c) Be stored in a manner which complies with public records and record retention laws.
6. Any media or press contact made to an employee concerning social media content should be referred to the agency’s communication/public affairs team.
7. Unauthorized use of social media will result in the loss of access for the user and, depending on the seriousness of the infraction, may result in disciplinary action, up to and including termination.
8. Official meetings or committee meetings conducted via social media may be subject to Open Meetings law.

9. Not all social media platforms conform to government accessibility standards for person with disabilities. Therefore, social media should not be the only means of providing critical information.

Sec. 480.050 Non-Official or Personal Use of Social Media and Social Networking

Employee use of social media and social networking services for strictly personal use outside of the workplace does not require approval from an agency or appointing authority. However, employees should recognize that social media can blur the line between professional and personal lives and interactions. All employees should exercise discretion and sound judgment when using social media and social networking services to avoid compromising professional, legal, and ethical standards. Employees' social media activities must not violate State of Wisconsin Work Rules, including agency-specific policies. Employees shall not post anything on social media that has the potential to negatively affect the work environment, impair the agency's ability to carry out its mission, impair relationships with agency partners, or impair the public trust. Violations may result disciplinary action, up to and including termination.

Employees are personally responsible for any information they communicate online. Content related to government business may be subject to disclosure under the public records law regardless of whether it is found on an agency's official social media account or a non-official, personal social media account. This holds true no matter if the content was posted intentionally or inadvertently.

Any activity using state equipment (including access to the internet) is governed by the agency's internet usage policy or other applicable policies including State of Wisconsin Work Rules applicable to state employees.

Agencies shall provide guidance for employees when using public-facing social media in a non-official, personal capacity. Guidance may be in the form of an agency policy or guidelines in the agency's employee handbook. Guidance will include, but is not limited to, the following:

1. Employees who identify themselves as an employee of an agency, or holds a position where the agency association is known, must ensure their social media presence and related content (even if personal) are:
 - a. consistent with how an employee should be presented as a professional of their agency or the State of Wisconsin;
 - b. appropriate to the public trust associated with the employee's position; and
 - c. conforms to existing agency standards, including discrimination, harassment, and civil rights policies.
2. Employees have no expectation of privacy when using social media.
3. Employees who identify themselves as an employee of the State of Wisconsin in their social media profile, should, as a matter of good practice, add a disclaimer clearly stating that the opinions expressed are theirs alone and do not represent the views of the agency or the State of Wisconsin.
4. Employees should not use their work email address, network ID, etc., as their log-in or contact address on any social media site unless it is being used for a state-related and authorized purpose.
5. Employees should not discuss any information that is not already considered public. The public discussion of sensitive or privileged information is strictly prohibited. This rule applies even in circumstances where passwords or other privacy controls are being used to control and limit the employee's social media audience.
6. Employees should not implicitly or explicitly state that they have access to facts or any other non-public information due to their position.
7. Other than protected speech or discussion for purposes of concerted activity, employees with a personal complaint about working conditions, co-workers, supervisor, or other matters involving their employment should discuss the matter with their supervisor or human resources rather than posting their concerns to social media.

Note: An employee may lose the speech protection provided by concerted activity when they say or do something egregiously offensive or knowingly and maliciously false, or by publicly disparaging the state or agency without relating to complaints about working conditions or seeking to prepare for group action.

8. In some instances, an employee may be protected by the Wisconsin Whistleblower Law when sharing certain information. However, the strict criteria of the whistleblower protections must be met first. The Wisconsin Whistleblower Law (ss. 230.80 to 230.85, Wis. Stats.) protects state employees from retaliation for disclosing information about:
- A violation of any state or federal law, rule or regulation, or
 - Mismanagement or abuse of authority in state or local government, or
 - Substantial waste of public funds, or
 - A danger to public health and safety.

To qualify for protection under the statute, an employee must disclose the protected information in writing to their immediate supervisor or to a governmental unit designated by the State of Wisconsin, Department of Workforce Development, Equal Rights Division (ERD) before sharing the information with anyone else other than an attorney, collective bargaining representative, legislator, or certain legal authorities. The governmental unit will be determined by ERD based on the specific information the employee is seeking to disclose.

The Whistleblower Law prohibits any retaliatory disciplinary action against an employee who has made a protected disclosure. An employee who believes he or she has been the subject of retaliation may file a written complaint with ERD.

9. Employees must maintain confidentiality and not disclose private or confidential information, including protected health information or personally identifiable information of others including co-workers, clients, patients, persons under the care or supervision of the Department of Corrections, etc.
10. Employees should not post internal reports, policies, procedures, or other internal state communications identified as confidential by the agency.
11. Employees should not create a link from a personal blog, website, or other social networking site to a State of Wisconsin website when doing so would constitute a violation of the Code of Ethics for state employees (see Ch. ER-MRS 24, Wis. Adm. Code and Ch. 19, Wis. Stats.), a violation of the State of Wisconsin Work Rules (see Wisconsin Human Resources Handbook Chapter 410), or a violation of agency-specific work rules or policies.

Sec. 480.060 Public Records

All content, including comments and replies posted on any State of Wisconsin social networking sites are subject to the Wisconsin Public Records laws as found in ss. 19.31 to 19.39, Wis. Stats. All information found on these sites is subject to reprinting in newspapers, magazines, or online. Agencies will follow applicable record retention schedules for electronic social media posts. More information can be found in the [Wisconsin Public Records Law Compliance Guide](#), the [Wisconsin Public Records Board Guidance & Best Practices](#), and [Statewide General Records Schedules](#). General considerations are as follows:

1. If the posts, photos, etc., are made or received in connection with the transaction of public business (such as providing advice or receiving comments about the agency, its programs or core business), they are public records for the purposes of records retention and need to be retained for their minimum retention periods.
2. If the posts, photos, etc., are copies of records that the agency is already retaining for the minimum retention period (such as links to publications), they may be considered secondary copies and retained accordingly.
3. Consideration should be given regarding the retention and retrieval capabilities of the technology used, and employees should take appropriate measures to ensure that posts made via social media technology are

retained and retrievable in the event of an open records request for the entire duration of the retention period (even if the employee leaves the state during that time period). This may require making hard copies or saving via another electronic means.

Sec. 480.070 Administrative Information

This chapter was created and published in March 2021 to provide guidance to agencies on social media usage by employees in both professional and personal capacities.