



6. USE OF SOCIAL MEDIA BY FACULTY AND STAFF

a. Commitment to Academic Freedom and First Amendment

The Kansas Board of Regents strongly supports principles of academic freedom. It highly values the work of state university faculty members. Academic freedom protects their work and enhances the valuable service they provide to the people of Kansas.

The Board also supports this statement from the 1940 Statement of Principles of the American Association of University Professors:

“College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.”

Further, the Kansas Board of Regents recognizes the First Amendment rights as well as the responsibilities of all employees, including faculty and staff, to speak on matters of public concern as private citizens, if they choose to do so, including through social media. In general, for both faculty and staff, any communication via social media that is protected by the First Amendment and that is otherwise permissible under the law is not precluded by this policy.

This policy shall be construed and applied in a manner that is consistent with the First Amendment and academic freedom principles.

b. Social Media Policy

In keeping with the Kansas Board of Regents' commitment to the First Amendment and principles of academic freedom, the Board supports the responsible use of existing and emerging communications technologies, including social media, to serve the teaching, research, and public service missions of the state universities. These communications technologies are powerful tools for advancing state university missions, but at the same time pose risks of substantial harm to personal reputations and to the efficient operation of the higher education system. The Board therefore believes it is prudent to adopt this policy on the proper – and improper – use of social media.

1. For purposes of this policy: "Social media" means any online tool or service through which virtual communities are created allowing users to publish commentary and other content, including but not limited to blogs, wikis, and social networking sites such as Facebook, LinkedIn, Twitter, Flickr, and YouTube; "social media" does not include e-mail sent to a known and finite number of individuals, or non-social sharing or networking platforms such as Listserv and group or team collaboration worksites.
2. Authorship of content on social media in accordance with commonly accepted professional standards and in compliance with all applicable laws and university and Board policies shall not be considered an improper use of social media in the following contexts:
 - i. academic research or other scholarly activity;
 - ii. academic instruction within the instructor's area of expertise; and
 - iii. statements, debate, or expressions made as part of shared governance and in accordance with university policies and processes, whether made by a group or individual employee.
3. The United States Supreme Court has held that public employers generally have authority to discipline their employees for speech in a number of circumstances, including but not limited to speech that:
 - i. is directed to inciting or producing imminent violence or other breach of the peace and is likely to incite or produce such action;
 - ii. when made pursuant to (i.e. in furtherance of) the employee's official duties, is contrary to the best interests of the employer;
 - iii. discloses without lawful authority any confidential student information, protected health care information, personnel records, personal financial information, or confidential research data; or
 - iv. subject to the balancing analysis required by the following paragraph, impairs discipline by superiors or harmony among co-workers, has a detrimental impact on close working relationships for which personal loyalty and confidence are necessary, impedes the performance of the speaker's official duties, interferes with the regular operation of the employer, or otherwise adversely affects the employer's ability to efficiently provide services.

In determining whether an employee's communication is actionable under subparagraph iv, the interest of the employer in promoting the efficiency of the public services it performs through its employees must be balanced against the employee's right as a citizen to speak on matters of public concern.

4. When determining whether a particular use of social media constitutes an improper use, the following shall be considered: academic freedom principles referenced in subsection b.2., the employee's position within the university, whether the employee used or publicized the university name, brands, website, official title or school/department/college or otherwise created the appearance of the communication being endorsed, approved or connected to the university in a manner that discredits the university, whether the communication was

made during the employee's working hours and whether the communication was transmitted utilizing university systems or equipment.

5. The chief executive officer of a state university, or the chief executive officer's delegate, has the authority to make use of progressive discipline measures pursuant to Board or university policy, up to and including suspension, dismissal and termination, with respect to any faculty or non-student staff member who is found to have made an improper use of social media. Existing university grievance and review processes shall apply to any such action.

c. Application of policy

This policy on the use of social media shall be construed and applied in a manner that is consistent with the First Amendment and academic freedom principles and shall apply prospectively from the date of its original adoption by the Kansas Board of Regents on December 18, 2013.

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