

San Mateo County Departmental Social Media Policy (revised April 2015)

This policy replaces the San Mateo County Social Media Toolkit dated February 2011

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1. San Mateo County Social Media Policy

1.1 Introduction

1.1.1. Purpose

The purpose of this policy is to establish standards for and responsibilities regarding the authorized use by San Mateo County departments of social media. These standards ensure that County communications staff using social media tools are compliant with existing policies and legal requirements. Personal use of social media by County employees is addressed separately by applicable County policies.

The County of San Mateo has a business need to augment traditional communication methods with the use of social media channels. This policy applies to all San Mateo County-sponsored use of social media sites and to all County employees and approved volunteers, consultants, service providers, and contractors performing business on behalf of a County department who use social media for work-related purposes.

1.1.2. Policy Overview

To address the way residents communicate and obtain information online, San Mateo County departments may use social media technology to reach a broader audience, streamline processes, enhance communication, collaboration and information exchange, and foster productivity improvements.

In addition, San Mateo County supports the use of social media to further the goals of the County and the missions of its departments where appropriate. However, use of social media must not compromise data confidentiality and integrity. This policy establishes guidelines for the use of social media.

1.1.3. Executive Summary of Steps for Departmental Use of Social Media

This policy outlines what a County department should do when using social media for official purposes. In summary, a department that is looking to use social media or that is already using social media should be sure that it follows the following steps for each use of social media (for example, go through the steps for the department's use of Facebook and separately for the department's use of Twitter):

1. Consider whether and why it makes sense for your department to use the particular social media outlet
2. Using the template available from the County Manager's Office, Department Heads, or their designees, will draft a Social Media Work Plan

3. Submit the completed Social Media Work Plan to the Social Media Coordinator in the County Manager's Office for review and recommendations. [NOTE: Draft Social Media Work Plans may need to go through more than one cycle of the revision and review process (i.e., Steps No. 2 and No. 3) before such work plans are ready for approval by the Department and the CMO.]
4. A copy of the approved Social Media Work Plan shall be placed on file with the Social Media Coordinator in the County Manager's Office.
5. Draft the Social Media Terms of Use to be used with the particular social media outlet using the available templates
6. Submit the draft Social Media Terms of Use to your department's assigned Deputy County Counsel for review
7. Designate department staff who will be responsible for the day-to-day use and maintenance of the service
8. Create the social media presence for your department, being sure to link to or post the Terms of Use on that service
9. Make sure that department staff both routinely monitor the social media outlet and use the site for its intended purpose on a regular basis
10. For any problems (such as people who post inappropriate content), work with your assigned Deputy County Counsel to address the problem
11. Comply with the other requirements of this policy for the duration of the use of social media for official County business
12. Terminate use of social media outlet when the purpose has been fulfilled or the department is no longer using the site

2. Policy and Guidelines

Department use of social media technology shall conform to the guidelines, responsibilities, and procedures contained or referenced in this policy.

2.1. General Guidelines

1. Each official San Mateo County presence on social media sites or services is considered an extension of the County's information networks and is governed by County policies, including e-mail, Internet usage, and portable computer policies.
2. Department Heads, or their designees, will review, approve, and monitor all use of social media for their department. Official use by the department of social media services is ultimately the responsibility of the Department Head.

Only authorized agents are permitted to conduct official San Mateo County business using social media sites and tools.

3. Each department must prepare a Social Media Work Plan and Terms of Use for each social media service it plans to use. The Work Plan and Terms of Use must be reviewed and approved as outlined by this policy.
4. Each Department Head will ensure that the Department's designee(s) will routinely monitor content on each of the Department's social media services to ensure adherence to this policy as well as message and branding consistent with the goals of San Mateo County.
5. Employees who publish to social media in the scope of their work for the County are acting as representatives of County government via social media and accordingly must conduct themselves at all times in accordance with County policies, including this policy. Employees who fail to conduct themselves in an appropriate manner shall be subject to disciplinary action.
6. Departments must keep, in a secure manner, an updated list of all user names and passwords associated with the Department's official social media accounts. It is important for the Department to have access to each account at any time in case of the unavailability of the person(s) who normally maintain each account, and the Department's designated users are required to update the Department with login information.
7. Departmental social media use must comply with the Social Media Handbook established by the Director of Communications and Social Media Coordinator in the County Manager's Office.
8. Departments should never follow, like, or link to political campaign sites. While Departments may "follow" or "like" the official social media accounts of elected officials, departments should exercise caution to avoid the appearance of endorsing a candidate or specific elected official and should not follow such officials' personal social media accounts not used for County business. Departments may retweet, follow, like, share, and/or comment on posts by elected officials unless doing so would appear to endorse a political candidate or campaign. Departments should also not use social media to take positions regarding political issues that are pending before the Board of Supervisors and should avoid "following" or "liking" partisan sites that take positions on candidates or campaigns (including but not limited to partisan newspapers or other media). The department should consult its assigned Deputy County Counsel with questions about any of these issues.
9. Departments that use social media are responsible for complying with applicable federal, state, and county laws, regulations, and policies. This includes adherence to established law and policies regarding copyright,

records retention, Public Records Act (PRA), First Amendment, Health Insurance Portability and Accountability Act (HIPAA), privacy laws, and information security policies established by San Mateo County. These guidelines attempt to address the most common concerns in these regards, but departments should contact County Counsel with any questions with regard to legal compliance.

10. If a department plans to collect contact information by way of social media services, it must do so by allowing members of the public to opt-in (rather than requiring them to opt-out of such collection), and it must include language in the Terms of Use regarding “Dissemination of Information” (this language is found in the available templates).

2.2. Roles and Responsibilities

1. Director of Communications/County Manager

The County Manager and the Director of Communications, or his/her designee, are responsible for setting policy guidelines with input from the Executive Council. They also are responsible for facilitating this policy in compliance with established County rules and protocols. This includes responsibility to audit department use of social media, to enforce policy compliance, to authorize social media tools/web sites prior to their use in the conduct of official San Mateo County business, and to review and provide feedback on occasion regarding social media use.

2. Countywide Social Media Coordinator

The Countywide Social Media Coordinator’s role is to serve as a liaison between Departments and the County Manager’s Office to develop strategies to increase engagement on social media sites by collaborating with divisions, outlining a campaign calendar, creating relevant content, and conceptualizing tactics to grow audience participation. The Social Media Coordinator will keep a copy of all departmental Social Media Work Plans and maintain an understanding of which individuals are authorized by each Department to manage use of the Department’s social media services. In addition, the Social Media Coordinator will act as a resource to help departments develop appropriate uses for social media, identify the best social media tools to achieve their goals, define a strategy for community engagement using social media, and comply with social media best practices and the Social Media Handbook.

3. Elected Officials and Department Heads

Within the guidance of this policy, Elected Officials and Department Heads have authority to establish and terminate social media use at the department/division level and to set goals and practices regarding the department’s use of social media. The Elected Official or Department Head has the duty to ensure that their employees are aware of the Social Media Policy and related policies and to take appropriate steps to enforce compliance, including establishing a well-thought out Social Media

Work Plan that complements countywide policies and considers the department's mission and goals. Elected Officials are also responsible for abiding by laws pertaining to campaigning and open meetings in relation to the use of social media. (The term "Department Head" in this document includes Elected Officials.)

4. Departmental Social Media Manager

Each Department Head shall designate at least one Departmental Social Media Manager for each of its uses of social media. The Departmental Social Media Manager shall have the authority to use social media on behalf of the Department and is responsible for ensuring the appropriateness of content in addition to complying with the Social Media Handbook and this policy. The Social Media Manager shall ensure that the Department Head or designee has up-to-date login information for each departmental social media presence at all times. The Social Media Manager shall also review the social media outlet's own Terms of Use and identify any problematic areas. Departments may designate their Public Information Officers or other official spokespersons as Department Social Media Managers for the purposes of this policy.

5. County Counsel

The Office of County Counsel is responsible for reviewing each Department's Terms of Use for each instance of social media use as well as to provide general advice regarding legal issues that are implicated by social media.

2.3. Procedures

2.3.1. Requirements for Department's Use of Social Media

Departments that choose to utilize social media shall:

1. Establish a Social Media Work Plan as outlined in Section 4.3 that complements countywide policies and considers the department's mission and goals, audience, legal risks, technical capabilities, security issues, emergency response procedures, etc. The work plan shall be submitted to the Social Media Coordinator for review and recommendations, with final approval by County Communications Officer.
2. Review the social media outlet's own Terms of Use and identify any items that would pose problems for the Department and/or the County. County Counsel may be consulted with questions, but the Department must review and understand the site's Terms of Use.
3. Prepare the Department's Terms of Use document (see Section 4.2) based on the templates available online (<http://intranet.co.sanmateo.ca.us/communicationsportal/social-media/>)

for review and approval by County Counsel. The final Terms of Use shall be posted or linked on the social media platform being used.

4. Designate a Departmental Social Media Manager responsible for overseeing the department's activity, policy compliance, and security protection for each social media platform being used.
5. Be responsible for the creation, administration, and deactivation of social media accounts.

2.3.2. Authorized Use

Department Heads, or designated division heads, are responsible for designating appropriate levels of use.

1. Social Media Manager(s) (which may include official departmental spokespersons or Public Information Officers), and Department Heads, or their respective designees, shall be considered authorized users and have permission to post and respond on behalf of the department.
2. Appropriate usage levels include identifying what sites the Social Media Manager is approved to use, as well as defining capability for said use: publish, edit, comment, or view only.
3. To the extent that a Department Head or designee authorizes other users to play an official role in relation to the department's social media use, such authorized users shall review and comply with this policy.
4. Social Media Manager(s) shall:
 - be a San Mateo County employee;
 - be familiar with San Mateo County policies; and
 - understand the scope of responsibility and be appropriately trained to interact on behalf of a department.

2.3.3. Social Media Training

Once the department has decided to engage in the use of social media, the agency will entrust specific individuals (Departmental Social Media Manager(s)) with the responsibility of posting and updating the agency's social media identity or page (e.g., writing the blog, updating the social networking page). Agencies must articulate clear expectations for its use prior to securing the social media identity or page.

2.3.4. User Behavior

The same standards, principles and guidelines that apply to County of San Mateo employees in the performance of their assigned duties apply to employees' work-related social media technology use.

1. Authorized users shall only utilize their department's social media accounts within the scope defined by their respective department and in compliance with all County policies, practices, user agreements, and guidelines.
2. Departmental Social Media Managers and all other authorized departmental social media spokespersons participating in social networking discussions related to County business matters on their personal social media accounts shall indicate that viewpoints are personal and do not necessarily reflect County opinion. Other County employees who are not authorized to speak on behalf of a department or the County shall not state that their views are official views of the department and/or County. Notwithstanding the foregoing, this Social Media Policy is not intended to supplant any applicable County policies relating to the off-duty conduct of its employees.
3. Violations of this policy shall be reviewed on a case-by-case basis and may result in disciplinary action.

2.3.5. Approved Social Media Networks

Departments shall only utilize County-approved social media networks for hosting official County social media sites listed in the County of San Mateo Social Media Handbook unless they get written approval of the Social Media Coordinator.

1. New social media networks under consideration will be reviewed and approved by the County Manager's Office and the County's Social Media Coordinator with consultation from County Counsel and Human Resources when appropriate.
2. For each approved social media network, usage standards will be developed by the County's Social Media Coordinator to optimize government use of the site.

2.3.6. Authenticity Establishment — Branding

Departmental social media sites shall be created and maintained with identifiable characteristics of an official County site that distinguishes them from non-professional or personal uses.

1. County social media network accounts shall be created using an official County email account.
2. Contact information should display an official County email address, include language regarding the fact that the account is the "official account," and provide a link to the County or department website.

3. Use the County seal and/or department logo on social media accounts to confirm authenticity of site.
4. Terms of Use must be displayed. (See 4.4: Creating the Terms of Use).
5. Make sure your name includes some form of San Mateo County, such as, SMC.

2.3.7. Site Content

Departments are responsible for establishing and maintaining content posted to their social media sites.

1. Department Heads and/or Departmental Social Media Managers shall review site activity daily for exploitation or misuse.
2. Contents posted on County social media sites may be considered public records subject to disclosure under California's Public Record Act ("PRA" - Government Code §§ 6250 et. seq.). PRA requests for the production of posts on a County social media site shall be referred to County Counsel for review and response.
3. Sites or services shall include the text of or a link to the site-specific Terms of Use drafted by the Department and approved by County Counsel as outlined below.
4. Unacceptable content (See 2.3.8: Updating Account Content: Unacceptable Content) shall be removed and repeat individual violators may, in some circumstances, be prohibited from further posting. Contact County Counsel on any legal issues. (See 2.3.10: Retention of Records concerning content management and deletion).
5. Departments shall have preventative measures in place against potential destructive technical incidents. (See 2.3.11.: Security of Social Network).

2.3.8. Updating Account Content

Appropriate Times

1. Regularly: Departments should develop a work plan to monitor accounts daily and update as appropriate for the type of site. For example, be prepared to post to Twitter a minimum once a day to build a following.

2. Emergency: Departments should address use of social media during an emergency within their respective department emergency operations plan.
3. Dissemination and Interaction Tips
 - Monitor your social media network for discussion about San Mateo County, to reduce/eliminate inappropriate discussions/posts in accordance with the Terms of Use and this policy.
 - All County accounts should be viewable to the public and should not use privacy settings.
 - County accounts should only join a group or become a fan of a page if it is related to work (can include professional, governmental or non-profit organizations).
 - County accounts can create their own groups by using the same guidelines mentioned in this policy.

Acceptable Content

Acceptable forms of content include, but are not limited to:

- Text;
- Video and photographs - Be sure to check images and videos for sensitive information in the background and obtain releases as needed;
- Graphics; and
- Links (hyperlinks).

Unacceptable Content

Only content that violates the department's Terms of Use for a given social media service may be removed. However, before removing content suspected of violating the Terms of Use the department should consult with County Counsel. The following are examples of content that may be prohibited by the Terms of Use and may be removed (with consultation of counsel) if appropriate:

- Profane language or content.
- Explicit sexual or harassing content, including links to such content.
- Violent or threatening content.
- Solicitation of commerce, commercial activities, fund-raising or sponsorship.
- Illegal activity.
- Information that may compromise the safety or security of the public or public systems.

- Content that violates a legal ownership interest of any other party, such as trademark or copyright infringement.
- Political activities by County employees in an official capacity or the Department.
- Posts by employees that violate San Mateo County or Departmental policies and procedures.
- Personal information about employees.
- Off-topic discussions or postings (for limited public forums).
- Making or publishing of false or defamatory statements concerning any individual.
- Links that are:
 - a. Primarily commercial in nature; or
 - b. Charge a user-fee for access.

Content Deletion

- Unacceptable content should be removed as soon as possible after consultation with County Counsel. A copy of every deleted item must be retained. The following language can be used to warn individuals about their content:

“Your recent post is in violation of San Mateo County’s Social Media Policy and the department’s Terms of Use for this social media service. The County reserves the right to remove, hide, or block such content. Please refrain from posting inappropriate content in the future. Thank you for your understanding.”
- Removing or blocking an individual from future posting on Departmental Social Media page(s) is not recommended. Departments should consult with assigned Deputy County Counsel to determine whether such action would be appropriate.
- Tagged Material - Material that is tagged (via hash-tag, link to a Twitter account, link to a Facebook page, etc.) to departmental accounts should be monitored to ensure appropriateness. If the tag violates this policy or the Terms of Use, the Social Media Manager or designee shall remove the tag promptly.

2.3.9. Use a County E-mail Account to Post

To ensure that information posted on social media accounts is official, timely and accurate, all material posted should be tied either to the department's official login or to the Departmental Social Media Manager's San Mateo County e-mail account. If needed, each department should coordinate with the County Manager's Office and ISD to unblock social media from County computers and to establish an appropriate e-mail account and URL or web address.

2.3.10. Retention of Records

Department use of social media shall be documented and maintained in an easily accessible format that tracks account information, although the social media service itself may meet the requirements of retention. To the extent that the social media service only keeps information for a limited period, the department should consult with its assigned Deputy County Counsel regarding whether copies should be kept. In general, the following guidelines should be followed:

1. All content should be fully accessible to any person requesting documents from that site.
2. No records should be deleted without cause. Such removal must be done in compliance with the Terms of Use and this policy and upon consultation with County Counsel. A copy of the removed material shall be retained in some manner.
3. Responsibility is left to each department to retain records (refer to the IT Security Officer and County Counsel for suggestions).

2.3.11. Security of Social Network

Departments should take efforts to ensure that their use of social media is as secure as is reasonably possible in order to avoid unauthorized access to the social media account. The following strategies can minimize the risk of misuse of the account:

- Follow the County's password policy guidelines when setting passwords for social media sites.
http://intranet/Attachments/Intranet/Policies/pwd_policy_guidelines.pdf
- Never leave station unattended or unlocked when logged on to a social media account.

- Only Department Heads, or their designees, and the department's Social Media Manager(s) should know login and password to social media account(s).
- At least two people must have access to login credentials.
- If a Departmental Social Media Manager changes, the login and password should also be changed.

Even with these measures, sites are not immune from attacks. One sign of intrusion is defacement, in which the social media page is replaced with the attacker's message. Another indicator might be complaints of e-mails containing a virus or a fraudulent message coming from a County social media account.

In the event that social media use is compromised, the Department should immediately:

- Call ISD Help Desk as soon as possible.
- If possible, change login and password information immediately.
- Acknowledge the security breach to social media followers in consultation with the County Communications Manager and/or your Public Information Officer.
- Look for signs of damage, making necessary corrections.
- Reporting the incident to the County Manager's Office and IT Security Officer.
- Reporting the incident to Risk Management if there is any indication of compromise of employee or other personal information or if any financial loss is implicated.

3. Social Media Guidelines for Employees

3.1. Guidelines for County Employees Who Use Social Media for County Business

Employees or others affiliated with the County who are required to use social media for County-related business, including managing a department's use of a social media service or posting comments in their official capacity, are required to comply with the following guidelines:

1. You are Responsible for What You Publish. You are responsible for the content you publish on your department social media site. Be mindful that what you publish will be public for a long time.

2. Stick to Your Area of Expertise. For example, if Planning receives a question about Public Works on their network, it is not appropriate for Planning to answer the question since it's not the department's area of expertise. Instead, the moderator should direct the question to the appropriate department. However, if you respond to a problem or issue, you need to own it. Once you become the point of contact for a customer or employee complaint, stay with it until it is resolved.

3. Considerations When Speaking on Behalf of Your Department. Identify yourself—name and, when relevant, role at your department—when you discuss department or department-related matters on your department's social media service or in connection with the department's social media identity. Only speak on behalf of the department when your commentary is based on your department's explicit written standards, policies, and practices or when you have received prior permission from your supervisor to address a topic in a particular way. It is generally not appropriate for you to respond in an official capacity in relation to the department's use of a social media service with your own personal views. You may respond in an official capacity using first person or passive voice if such a response is consistent with the department's guidance regarding use of the social media service.

4. Understand Users' First Amendment Rights. Although departments can moderate its social media services that accept comments from the public in order to restrict speech that is obscene, threatening, discriminatory, harassing, or off topic (if a limited public forum has been created), you may not use the moderation function to restrict speech with which the department merely disagrees. Users have some First Amendment rights in posting content to public social media sites hosted or maintained by San Mateo County. Department moderators must respect those rights by not removing comments other than those excluded for specific legitimate reasons, such as those identified in the department's [Terms of Use](#).

5. Do Not Comment on Social Media Sites about Department Business Outside the Department's Social Media Sites or Identities. Do not publish content to any website or social media service outside of your department's official website or social media service that has to do with your department or department-related matters unless you have been authorized to do so by your Department Head.

6. Respect Copyright Law. Social media participants must abide by laws governing copyright and fair use of copyrighted material owned by others. Never reprint whole articles or publications without first receiving written permission from the publication owner or confirming the copying is permitted. Never quote more than a short excerpt of someone else's work and, if possible, provide a link to the original.

Also avoid posting content that contains photos, videos, music, or sound from another person or entity unless you have permission to re-post such material.

7. Protect Confidential Information. Do not provide your department's confidential information or other protected information. Never post legally protected personal information that you have obtained from your department (for example, information that is not public record). Ask permission to publish or report on conversations that occur within your department. Never post information about policies or plans that have not been finalized by your department unless you have received explicit permission from your supervisor to post draft policies or plans on the department social media site for public comment. Never post photos or other information about clients, patients, or members of the public without confirming whether you are authorized to do so.

8. Consider Your Content. As informal as social media services are meant to be, if they are being used in relation to government identity/department, they can be official government communications. Social media services will be sought out by mainstream media, so a great deal of thought needs to go into how you will use the social media in a way that benefits both the department and the public.

9. Don't Feed the Rumor Mill. Do not deny or confirm rumors or suggest either denial or confirmation in subtle ways. You may choose to respond by clarifying facts or let rumor-containing content stand without comment.

10. Handling Negative Comments. Because the purpose of departmental use of social media services is often to get input or feedback from the public, you should expect that some of the input or feedback will be negative. Some effective ways to respond to negative comments include:

- a. Providing accurate information in the spirit of being helpful
- b. Respectfully disagreeing
- c. Acknowledging that it is possible to hold different points of view

However, negative comments that are not in violation of the Terms of Use should never be removed without first consulting your assigned Deputy County Counsel.

11. Provide Links. When you make a reference to a law, regulation, policy, or other website, provide a link or a citation where possible.

12. Respect Your Audience and Your Coworkers. Don't use ethnic slurs, personal insults, or obscenity or engage in any conduct that would not be acceptable in your department's workplace. Remember that San Mateo County's residents reflect a diverse set of customs, values, and points of view. You should also give proper consideration to privacy and be careful regarding topics that may be considered

objectionable or inflammatory. By way of example, it is generally inappropriate for the government to take a stand on political or religious issues.

Also, do not use your department's social media presence to communicate among fellow County employees. And do not air your differences with fellow County employees on your department's social media's presence.

13. Be Transparent and Differ Respectfully. Don't pick fights, be respectful in addressing input from the public with which you or the department do not agree, and don't alter previous posts without indicating that you have done so. When you see misrepresentations made about your department by media or by other users, you may use the department's social media site or identity to address the issue. However, you must do so with respect and should stick to the facts.

14. Use the Social Media Site or Identity Only to Contribute to Your Department's Mission. When you contribute to your department's social media site or identity, provide worthwhile information and perspective that contributes to your department's mission of serving the public. What you publish will reflect on your department and the County overall. Social media sites and identities should be used in a way that contributes to the department's mission by:

- a. Helping you and your co-workers better perform your jobs;
- b. Informing citizens about relevant information, government services, and how to access such services;
- c. Making the operations of your department transparent and accessible to the public;
- d. Creating a forum for the receipt of input from residents; and
- e. Encouraging civic engagement.

15. Respond to Your Own Mistakes. If you make an error, own up to it and correct it quickly. In general, only spelling errors or grammar fixes should be made without making the change evident to users. If you choose to modify an earlier post, make it clear that you have done so, and do not remove or delete the incorrect content without providing the correct information and acknowledging the change. Ways to accomplish this include:

- a. Strike through the error and correct it; or
- b. Create a new post with the correct information and link to it from the post you need to correct or clarify.

Either method is acceptable. The goal is that for the department's social media use to achieve transparency.

16. Use Your Best Judgment. If you're about to publish something that makes you even the slightest bit uncomfortable, review the suggestions above and think about why that is. If you're still unsure, discuss it with your manager.

17. Respect Your Time. Make sure that your online activities, even if they are sanctioned or required by your department, do not interfere with other parts of your job. Employee social media users are responsible for keeping their managers informed about any impediments that arise which could disrupt the agreed on publishing schedule. If your official social media duties are interfering with your job, you must let your supervisor know so that the issue can be addressed.

18. Handling Media Inquiries. A department's social media use may lead to increased inquiries from the media. If you are contacted directly by a reporter, you should refer media questions to your department's designated media contact or the County Communications Director.

3.2. Guidelines for County Employees Who Use Social Media Outside of Work

These social media guidelines for San Mateo County employees have been created to address some of the choices that individual employees, contractors, consultants, temporary staff and other workers at the County may face online. These guidelines are not intended to address every situation encountered through use of a social media.

Whether or not a San Mateo County employee chooses to create or participate in a blog, wiki, online social network or any other form of online publishing or discussion outside the workplace is his or her own decision. However, emerging online collaboration platforms are fundamentally changing the way County employees work and engage with each other, clients and partners. The old social norms and standards still apply, but the openness of social media creates situations that call for new rules of etiquette.

1. Employee's personal use must not be attributable to the department or employee's job function at department. While an employee's use and comments made at social media sites are subject to First Amendment protections, as well as permissible restrictions, any personal use made of social media sites outside of work must not be attributable to the department or the employee's job function at the agency. For example:

- a. Do not use your work e-mail address to register for social media and other sites unless the purpose is directly related to your job.

- b. Do not display the San Mateo County seal or other official County logos, emblems or patches on personal social networking accounts.
- c. Don't provide the County's or another's confidential or other proprietary information.
- d. Do not state or imply that you speak for the County, for a county department, or for County officials.

2. Protect your privacy. Employees are personally responsible for the content they publish on blogs, wikis or any other form of user-generated media. San Mateo County is not responsible for the personal content of your social media sites. Be mindful that what you publish may be public for a long time. Be aware of your association with San Mateo County in online social networks. If you identify yourself as a San Mateo County employee, ensure your profile and related content is consistent with how you wish to present yourself with colleagues and clients.

3. Use a disclaimer. Whether you publish to a blog or some other form of social media, make it clear that what you say there is representative of your views and opinions and not necessarily the views and opinions of San Mateo County. Unless you are specifically authorized by your manager or supervisor to speak on behalf of the County, consider including the following disclaimer on personal blogs or social media in which you identify yourself as a County employee: "The postings on this site are my own and don't necessarily represent San Mateo County's positions, strategies or opinions."

4. Social Media Legal Issues

4.1. Introduction

Use by County departments of social media implicates many legal issues. In order to protect each department and the County from unwanted problems, each department considering utilizing social media must review the following points/issues (listed in Part 1, below), present a summary of its anticipated use with respect to these legal issues in its Social Media Work Plan (requirements listed in Part 2, below), and then finalize the Terms of Use with respect to the use of that particular social media resource for posting on or linking from the social media service before utilizing the social media (templates containing required language are available on the intranet page regarding Social Media use <http://intranet.co.sanmateo.ca.us/communicationsportal/social-media/>). The department should contact its assigned Deputy County Counsel with questions or concerns about these or other legal issues.

4.2. Part 1 - Legal Concerns:

In preparing to use social media services, a department should consider each of the following underlined topics before making a decision to use the service and keep these points in mind when drafting its Work Plan:

The Site's Terms of Use. Departments utilizing social media resources should be aware that each site or resource likely has its own terms and conditions of use, and some of those terms and conditions may create a conflict with County policies. Each department must review the terms and conditions of use for each site or resource it plans to use and address any issues they spot in the legal discussion section of the work plan during the planning stage. The department's assigned attorney in the Office of County Counsel should be consulted regarding all such Terms of Use before the department decides to use the site or resource, but it is the Department's responsibility to understand the site's restrictions and rules.

Where the Terms of Use implicate a legal issue, County Counsel will provide input to the department regarding ways to address the issue or counsel the department on the risks it is assuming in utilizing the social media resource.

Other Legal Issues. Aside from the content of a particular social media outlet's Terms of Use, there are a number of general concerns that must be addressed by the Department. Below is a summary of the key concerns the Department must consider, and the Department must create a Terms of Use document from one of the provided templates to address these items. The text of the Terms of Use adopted by the Department must be posted or linked on the Department's social media presence. Your assigned Deputy County Counsel must review and approve the Terms of Use and can provide further information about the issues.

The list of issues, which is subject to modification, includes the following:

1. First Amendment Concerns. The United States and California Constitutions protect the freedom of speech of citizens from undue restrictions by the government. Because the County and its departments are government actors, the ways in which they can limit speech are restricted by these constitutional protections, including the First Amendment.

To the extent that social media outlets permit users other than the department to generate content (such as by posting comments), the department must carefully decide whether to permit such user-generated

content. If a department's use of a site is only informational, such as using a site to disseminate information without permitting comments by other participants, the department may list information that would be appropriate for sharing with the public. However, if the department decides to use the site to permit user-generated content (i.e., content from outside the department) to be posted or shared, First Amendment issues can come into play.

In order to protect the department and the County, the department must adopt one of the following designations for its use of the social media and follow the accompanying requirements below before beginning its use of the social media site or resources. Any planned change to the type of use by the department must be made in consultation with County Counsel and must also be made in accordance with these categories and requirements before such change is made. The categories are:

a - Information sharing only: If the use of the site/resource involves only sharing of information by the department, with no posting of information by anyone other than authorized department representatives, then the use of the site or resource is considered "information sharing" and does not create any kind of public forum. This is true even if others can send messages to the department through the resource or site. So long as such messages are not posted for others to view, the use remains "information sharing" only. Creating a list of information based on input from others, such as a public list of frequently asked questions, does not turn the use into a public forum.

b - Non-public forum: If the department wishes to create a limited, non-public forum for use by a small set of individuals, such as by department employees only, it can impose restrictions on the kinds of topics it wishes to encourage input on or even can limit the types of views on the topic that are permitted. To the extent that social media resources are used for this purpose, the department should limit access to the intended users so as to avoid permitting authorized users to have comments broadcast to the general public, thus destroying the non-public nature of the forum. The level of control associated with this kind of non-public forum requires clear restrictions determined in advance regarding the limits on content and that prevent general access. As with public forums below, the restrictions on topics or even on particular viewpoints should be clear, objective, and uniformly applied.

c - Public forum: If the department opts to permit comments, feedback, or other information to be posted by anyone other than the department representative(s) for viewing by the public or other users, the department may be creating a public forum of some kind. The ability of the department to limit, alter, or remove such comments, feedback, or

other information depends on the policies adopted by the department prior to allowing such content.

In no event should the department engage in discrimination based on the viewpoint expressed in such comments, feedback, or other information. Once the forum is opened to participation by the public, the department must remain viewpoint neutral. However, there are ways in which the department can limit or control the content of such forums. Also, the department must be clear to users about the type of forum it is creating, indicate any limits on the types of content allowed in clear, unambiguous terms, and be consistent in the application of those limits on all comments, feedback, or other information. Accordingly, the department must decide which of the following types of forums it wishes to create:

c(1) - Designated public forum: If the department wishes to allow substantial input from others with minimum restrictions, it can create a designated public forum. In general, a designated public forum only permits content-neutral limitations on the kind of speech. So a department could limit the timeframe during which comments on a particular topic are permitted, or it could restrict all comments to a certain length. In order to limit the kinds of views expressed, the department would need to show that the restrictions are necessary to serve a compelling government interest and that the restriction is narrowly drawn to achieve that end. Such restrictions can be hard to draft, and accordingly a department should create a designated public forum with caution. In creating such a forum, the department is generally limiting its own ability to remove content that may be deemed divisive, upsetting, or even off-topic.

c(2) - Limited public forum: If the department wishes to allow input from others that is limited to specific topics, it can create a limited public forum. In general, although a limited public forum still only permits content-neutral limitations on the kind of speech, it does allow for speech to be restricted to certain topics. For example, a department could create a forum for others to post questions regarding a particular subject matter. So long as the department is clear about the topical restrictions and is uniform in its enforcement, the department has the ability to remove comments that are off-topic. However, the department should still be aware that it will need to leave in place comments that, although perhaps off-color and non-productive, still relate to the topic. So, if the department asks for questions regarding its policies for dealing with the public, and someone posts a facetious question that suggests the Department Head has no interest in dealing with the public, that comment should not be removed. When in doubt about whether a comment can be removed, the department should consult with County Counsel. To help create a limited public forum, the department should avoid subjective or overly general

criteria regarding the subject-matter limitations. The more limited, more objective, and more specific the criteria is, the better. Also, the department should consider whether it wants to restrict participation using objective criteria (e.g., limiting participation to employees or certain groups of constituents) or utilize administrative control over access to the forum. Both such controls can help create a secure limited public forum. Also, in a limited public forum, policies against “personal attacks” may be permissible so long as the limitation is reasonably necessary to encourage public participation and foster discussion of the issues for which the forum was created.

For any forum created by the department, the department must post the applicable information listed below on the social media website, must consistently apply its guidelines to all comments, and must utilize objective and specific criteria for limiting comments, as outlined below.

Also, although social media sites might have their own policies restricting users in their speech (such as limits on use of profanity or personal attacks), the department should avoid enforcing the social media outlet’s rules in these areas. The department can enforce its own Terms of Use, but if other users have concerns about a violation of the social media outlet’s terms or conditions, such users should be directed to the social media outlet directly. This will help avoid problems where a comment may constitute permitted First Amendment speech (and therefore should not be removed by the County) but may be removed by the site itself (which the site can do based on its own terms or conditions of use).

2. Public Meeting Requirements (the Brown Act): The Ralph M. Brown Act (Gov. Code, § 549501 et seq.) governs meetings conducted by local legislative bodies, such as boards of supervisors, city councils, and school boards. The purpose of the Brown Act is to facilitate public participation in local government decisions and to curb misuse of the democratic process by secret legislation by public bodies, and the Brown Act imposes an “open meeting” requirement on local legislative bodies. The Act only applies to multi-member bodies such as councils, boards, commissions and committees, which are created for the purpose of reaching collaborative decisions through public discussion and debate. For purposes of social media, departments must remain aware that the Brown Act applies to meetings of a majority of the members of such multi-member bodies, including “serial meetings,” which can be held when members collect information or conduct business by communication in sequence, such as by e-mail or the Internet. The department should avoid having its use of social media create a meeting of such multi-member bodies, and when in doubt the department should

contact County Counsel. More information on the Brown Act is available online at:

http://ag.ca.gov/publications/2003_Intro_BrownAct.pdf

3. Public Records Act: Information posted by the department on a social media, including information the department permits to be posted by other users, may be subject to the Public Records Act. To the extent such social media outlets are open to the public, the public by definition already has access to those records and can access them without the assistance of the department or the County. However, the cautionary language in the Terms of Use templates should be used by the department on the site/service. In addition, the department should consider whether it wants to archive information from the site for any reason.

4. Dissemination of Information and Spam/Text Messaging: The department should avoid sending spam by way of social media, unless participants have opted-in to notifications of some kind. In addition, the department should never send unsolicited text messages to mobile telephone devices as doing so is against the law. If the department plans to collect contact information from social media participants to use to disseminate information, the department must: (1) post its policy regarding authorized uses of the distribution list; (2) require subscribers to opt-in to the list; (3) permit subscribers to remove themselves from the list at any time by contacting a listed representative of the department; (4) not release the list of subscribers except as authorized by law; and (5) not use the list except as outlined in the department's posted policy regarding use of the list.

5. Intellectual Property: The department shall avoid using the intellectual property (trademarks, artwork, music, other protected symbols or copy-written materials) of other individuals or organizations unless expressly authorized by the owner to use the protected intellectual property.

6. Advertising: Many social media services use contextual advertising that is not within the control of the department. Accordingly, the policy statement in the Terms of Use templates regarding advertising should be included in the department's policies on the site/service.

4.3. Part 2 – Creating a Social Media Work Plan:

In preparing its Social Media Work Plan, the department should include discussion of how each of the legal issues raised above will come into play, if at all, in relation to its planned use of the social media resources being considered. There is no specific format for drafting this discussion, but the department can use the underlined topics from Part 1, above, as an outline for addressing the legal issues. The summary should also indicate which type of forum, if any, the department's use will create in relation to the First Amendment concerns listed above. The department can then address the other legal issues listed, and it can simply state that certain issues are not implicated if that is the case. The Department's assigned Deputy County Counsel may be consulted with any questions at this stage of the process. The County Manager's Office will make available a template for creating a Work Plan.

4.4. Part 3 – Creating the Terms of Use:

Based on the issues outlined above in Part 4.2, the department should determine which kind of First Amendment forum it wishes to create. Once it makes that decision, the department should draft the Terms of Use it will link to or post on the social media site using one of the four templates available on the intranet via the Social Media Handbook. There is one template for each type of First Amendment Forum. The draft Terms of Use document must then be sent to your assigned Deputy County Counsel for review, input, and approval. Once it is approved you must post the document to the social media service (or make a link to it clearly visible to users of the social media service).