



Ronald E. Richter
Commissioner

150 William Street
18th Floor
New York, NY 10038

212-341-0903 tel
212-341-0916 fax

MEMORANDUM

DATE: October 25, 2011
TO: All Children's Services Staff
FROM: Ronald E. Richter
SUBJECT: Employee Use of Social Media

ACS recognizes that its employees use social media such as Facebook, Twitter, LinkedIn, YouTube and other forms of user-generated media, such as wikis, blogs as well as other on-line journals and diaries, chat rooms and bulletin boards. This policy was developed to help employees identify and avoid potential issues and provide guidance to employees in the use of social media in their personal lives.

While ACS continues to explore how the Agency can best use social media for official communication, employees are reminded that there should be NO official communication with foster parents and clients over personal social media sites due to confidentiality and other legal concerns. The Division of Youth and Family Justice (DYFJ) staff are reminded that there should be NO communication with residents or their family members over personal social media sites due to confidentiality and other legal concerns.

Separate Personal and Professional Roles:

Employees should never use their City e-mail addresses when participating in social media, whether in an official or personal capacity. Employees who engage in social media as part of their job assignment should refer to the DoITT's¹, *New York City Social Media Policy* subtitled section, Official Use of Social Media². Employees may only use social media during business hours if engaged in official Agency business, subject to the limitations set forth in DoITT's *New York City Social Media Policy*, subtitled section, Employees Using Social Media in Their Official Capacity. Employees may make limited use of social media during personal time (such as lunch hours), subject to the limitations of the *City of New York Policy on Limited Personal Use of City Office and Technology*.³

¹ Department of Information Technology and Telecommunications (DoITT)

² See New York City Social Media Policy attached and accessible via the following link:
http://cityshare.nycnet/html/cityshare/downloads/social_media_policy.pdf

³ See NYC Policy on Limited Personnel Use of City Office and Technology Resources attached and accessible via the following link:
http://www.nyc.gov/html/conflicts/downloads/pdf2/AUP_Final_Issued_Version.pdf

Furthermore, at all times, employees must comply with the ACS Code of Conduct and all federal, state and city laws and applicable regulations. DYFJ detention staff shall continue to comply with the "Department of Juvenile Justice (DJJ) Standard of Conduct" (as well as other existing DJJ policies).

Be aware that ACS monitors employee internet use. Employees have no right to privacy with respect to any information transmitted, received, created, accessed, obtained, viewed, stored or otherwise found at any time on the ACS computer system.

Some social media services, such as LinkedIn, allow participants to write recommendations or referrals. If you provide a reference or referral using one of these services, you must indicate that you are providing only your views and not the views of ACS.

Do not use ACS's logo in any postings and do not link to ACS's website or post any agency material on a social media site without the express permission of the ACS's Communications Office.

Be Aware of Your ACS Position:

If you identify yourself as an employee of ACS or hold a position with ACS that is known to the general public, make sure that your profile, comments and other postings are consistent with how you want to present yourself publicly. Make it clear through use of a disclaimer that the statements and views expressed are yours and do not reflect the views of ACS. Managers and others with leadership responsibilities must, in particular, consider whether their personal thoughts and views may be misconstrued by virtue of their position as expressing ACS's view.

Understand Your Personal Responsibility:

You are responsible for what you write or post on social media. You should not use any social media tool unless you understand how it works. Whether you intend it to be private or not, what you write and post will be available on the web for a long time and may spread to large audiences, even if it was not your intent. Before posting, it is a good idea to think about whether you will be embarrassed if your supervisor or other employees see your post. If the content of your post would not be acceptable in a face-to-face conversation, it is probably not acceptable content for a post. Also, it is not advisable to disclose personal or contact information or post photographs or "tag" photographs of coworkers without their prior permission.

Understand that You May Not Disclose Confidential Work-Related Information:

Employees may not disclose confidential Agency information to which they are privy. Not only are ACS employees prohibited from disclosing client-identifiable information such as names and addresses, but even if not disclosing the case names or addresses, employees must also refrain from disclosing descriptive details of a case that might be identifiable to a client or others involved in the case.

Understand that A Violation of ACS's Social Media Policy May Subject You to Disciplinary Action:

Employees participating in social media are subject to the Code of Conduct and City policies, such as the City EEO policy, even when engaging in social media while off duty. For example, be aware that being uncivil or discourteous or engaging in conduct tending to bring the City or ACS into disrepute or engaging in harassing or discriminatory conduct are prohibited by the Code of Conduct and City policy. Engaging in such behavior on-line, even in a personal capacity, may subject an employee to disciplinary action. In addition, all postings on social media must comply with all laws and ACS policies regarding the confidentiality of information.

If you have any questions about this policy please contact Susan Starker,
Director/Office of General Counsel, Employment Law Unit, at
susan.starker@dfa.state.ny.us

April 2010

New York City Social Media Policy

Introduction

This policy, in conjunction with the existing New York City Acceptable Use Policy and agency codes of conduct, provides overall guidance for agency use of social media. Individuals and entities that participate in social media on behalf of the City are expected to abide by these policies.

Social media/Web 2.0/new media tools are creative and interactive forms of internet-based communication. Social media provide a platform for New York City to develop stronger and more successful relationships with its customers. Social media provide agencies the ability to:

- Promote agency programs and initiatives by engaging customers
- Provide customers with an additional means to interact with the City
- Complement and integrate with other agency communications tools and traditional media for wider message distribution
- Share information with niche audiences
- Engage in national and regional discussions on relevant City issues

Social media platforms feature different display and content options and cater to various needs that agencies and their customers may have. Three types of social media sites are briefly described below:

Social Networking

Social networking platforms allow users to create individual profiles online with status updates, photo albums, videos, messaging and other features. Users can easily connect and communicate with those who have similar interests and backgrounds across the site.

Blogging

Blogs are online journals updated regularly with textual, audio and/or video entries. Blog hosting sites come in a variety of forms, including those that limit entries to short, sentence-long status updates.

Photo and Video-sharing

These social media platforms allow users to post, share and comment on user-contributed photographs and videos. Photo and video-sharing sites can be used to spread service announcements as well as host contests and competitions.

Official Use of Social Media

Agencies looking to explore and engage in social media should evaluate their individual needs and goals as to when and how they engage customers. **All official agency social media sites must be registered with DOITT.** The DOITT Social Media Registration System will be hosted on CityShare, the City's intranet, beginning May 3, 2010. To access the registration system, visit <http://cityshare.nycnet/socialmediaregistry>.

Agency Usage

Each person or group involved in an agency's official social media effort must have a clear understanding of the City's social media policy. Additionally, agencies must clearly define internal policies to complement the overall City policy. This internal policy must include roles and responsibilities for any personnel involved in communicating via social media, including affinity groups, vendors and volunteers, and a process to ensure there is a consistent message across all media that the agency uses for public communication, including social media. Training should be provided for employees authorized to engage in social media and employees not authorized to engage in social media should be warned of the consequences of using social media.

Agency Policies and Procedures

Agencies should develop an organizational structure and social media policy consistent with City-wide policies and approved by agency counsel that address the following elements:

- Roles & responsibilities for staff members that create and manage the agency's social media presence including a protocol for responding to complaints of dangerous conditions by referring those submitting complaints over social media to nyc.gov/311 and complying with records retention policies.
- Agency staff responsible for managing social media sites must be trained on the use of social media and records management issues presented by social media.
- Review and approval processes for social media messaging and content. Online communication should be consistent with any information and advice provided through other media and forums.
- Oversight of all social media sites developed within the agency (whether developed internally or through a vendor or consultant).
- Clear protocol for personal posts and comments by non-social media agency staff
- Consultant / Vendor / Contractor guidelines for use of social media.
- Internal process to address customer issues or complaints (if applicable).

Agency social media policies may depend on the nature and purpose of the communication. Multiple divisions should be involved in developing each agency's social media policy, and its ongoing use; these divisions may include communications, legal, press, technology and operations. One central contact should be designated to oversee the agency's social media program and to coordinate with the Mayor's Office and DOITT for policy updates.

Consultant / Vendor / Contractor Use of Social Media On Behalf of an Agency

Vendors or contractors hired by agencies to assist in developing agencies' social media presence must comply with all elements outlined in this policy and any other additional internal policy that an agency may develop. In contracting out social media related tasks, it is critical that the agency retains permanent ownership of the created web pages. For legal review of the vendor contracts, please contact your agency's legal counsel.

Branding Social Media Accounts as Official City Sites

Agencies engaging in social media should clearly brand their websites as an official government presence. It is important to represent the agency with a consistent message across all forms of communication, including .gov sites and social media platforms.

Certain official program initiatives may require the development of a non-branded social media site. Agencies interested in launching issue-specific campaigns without clear government association should contact their agency's legal counsel.

April 2010

Employees Using Social Media in Their Official Capacity

Agency personnel authorized to use social media for official City purposes may do so on City time and using City resources. Personnel may be authorized to use social media for many reasons, including (but not limited to) promoting an agency's message, engaging with other industry leaders, or participating on an agency's social media site as subject matter experts.

Personnel authorized to engage with customers via social media platforms as part of their City work should comply with all City and agency guidelines while doing so, and keep in mind that they are representing their agency and New York City at large with every social media interaction.

For information on personal use of social media sites during work hours, please check with your agency's Acceptable Use Policy.

Legal Considerations

While there are many benefits to working with social media, there are some areas of legal vulnerability that are unique to these forms of communication.

Content Posting and Sharing

As with other areas involving content use (e.g., websites, publications), agencies must make sure that content, such as photographs and videos, posted on City social media sites is either City-owned or that the material is used under a proper license or permission from the original owner. Reposting or "sharing" third party material via an article link or reference to the original text or material does not require a release when the original content is not actually reproduced.

Many social media platforms allow users to share and post their own photos, videos and other creative content on fellow users' account pages and sites. Agencies cannot reproduce content posted to official City social media pages by fans, followers and customers in other media without direct permission from the original owner of the content unless the person posting has clearly consented to reuse, editing or condensing of content at the time the post is made.

Social media promote and facilitate the sharing of user content. Agencies should work with their agency's communication or press office in crafting their social media message and strategy.

Privacy

As City social media sites grow in popularity and usage, issues of privacy become paramount. Agencies (particularly those that handle sensitive or protected information) need to be mindful of customers' privacy and identities. Agencies with fundamental privacy concerns (e.g. those serving minors or managing health information) should consider their customers' privacy before joining the various social media platforms disclosing customer involvement. In addition, those agencies may choose to alert customers that by affiliating with certain social media sites, they may be openly associating themselves with the specific agency or City service.

April 2010

Agencies posting material featuring identifiable private individuals and children must get permission before publication. Releases or permissions should be in writing or by an email authorization from the source confirming that the City's use is acceptable.

Terms of Service

When private individuals and organizations join social media sites, the sign-on process almost always includes a Terms of Service (TOS) clause. New members must agree to the individual site's Terms of Service before they are granted full-access privileges to the site. TOS clauses vary across social media platforms; as such, agencies should carefully read the TOS of each social media tool before developing its presence. For example, many of the sites provide that the site's operator is automatically provided with a broad license to any posted material, that the user consents to choice of law and venue in a remote jurisdiction and that the site's operator has the right to place advertising in close proximity to the user's content. The Mayor's Office and Law Department are attempting to negotiate changes to these types of provisions and will provide updates to agencies on this issue as progress is made.

Moderating Customer Input

Social media users are most engaged on sites that provide and encourage the exchange of information. These sites often provide users the ability to voice their opinions and reactions to posted information. This may result in comments or feedback from users that concern agency moderators or other staff. An agency should not use this type of media if it is uncomfortable with the idea of users posting negative or unsavory comments about itself, its leaders, or its programs. In other words, if the agency is uncomfortable with the level of exchange on a particular site, the site may not be appropriate for that agency.

To keep track of incoming feedback and customer contributed content, agencies should check their social media sites at least once a day. If a City social media site is created under guidelines or policies that limit the site to a particular topic (as opposed to general or all-purpose agency communications), off-topic comments or contents may be deleted under the guidance of agency counsel. **Otherwise, agencies may not delete or modify comments that are posted or otherwise sent or shared by outside parties on their social media sites.** For guidance on the narrow exceptions (e.g., obscene comments, hate speech, solicitations and comments that violate the Terms of Service of the host site), please contact your agency's legal counsel who will be able to consult with the Law Department to determine an appropriate response.

Notice

The interactive nature of social media enables agencies to directly engage customers. However, customers also have the ability to communicate with agencies and may choose to report an issue, request a City service or seek more information regarding a City program available to them over the various social media sites. **All customers submitting service requests over social media must be clearly referred to nyc.gov/311.** After complaints or requests for services have been referred to 311 Online, they should be removed from the social media site.

A request received through a social media site may also serve as official legal notice for future lawsuits. For example, if a customer notifies the NYC Department of Transportation about a pothole over a social media site and another customer is subsequently injured by the same pothole, the notification may potentially be used by the customer as part of a resulting legal action.

April 2010

Freedom of Information Law (FOIL)

Agencies should ensure that relevant staff are provided with guidelines and training before posting any material to social media sites. Once information has been posted, it may be considered an agency record subject to applicable retention requirements and to the Freedom of Information Law (FOIL), under which government records are made available upon request to members of the public. Even if the communication, information, photo, video, etc. is immediately removed from the host site, once it has been featured on a social media site, it still may be subject to record retention requirements and to FOIL. The same would be true of third party comments or materials posted on the agency's social media sites. If a request for government documents is posted on a social media site, the agency should treat the request as a FOIL request. For further guidance on compliance, consult with your agency's Record Retention and Records Access officer.

The City of New York

Policy on Limited Personal Use of City Office and Technology Resources

This Policy, which has been approved by the Department of Information Technology & Telecommunications, the Department of Investigation, the Conflicts of Interest Board, and the Law Department, governs the limited personal use of the City of New York's ("City") office and technology resources by City employees. An agency may adopt agency-specific standards and procedures that are stricter, but not less strict, than this Policy.

I. GENERAL POLICY

City employees are permitted limited personal use of the City's office and technology resources if the use is not prohibited pursuant to this or another applicable agency policy, does not interfere with or otherwise impede the City's operations or employee productivity, and involves no more than a minimal additional expense to the City. City employees may engage in the personal use of the City's office and technology resources permitted by this Policy only at times that do not conflict with the employee's official duties and responsibilities and the employee is not required to perform services for the City.

The opportunity that the City is extending to its employees to make limited personal use of the City's office and technology resources is only a privilege and may be revoked or limited at any time. Moreover, this privilege is subject to monitoring and other restrictions that may from time to time be announced. This privilege does not create a right for any person to use any City property or resources for non-City purposes. Limited personal use of the City's office and technology resources is at the sole risk of the employee, and the City is not responsible for any loss or damages resulting from such personal use.

II. DEFINITIONS

1. **"Office and technology resources"** includes but is not limited to: information technology, personal computers and related peripheral equipment, software, library resources, telephones, mobile telephones, pagers and other wireless communications devices, facsimile machines, photocopiers, Internet connectivity and access to Internet services, and email.
2. **"Information technology "** means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

Source: NYC Conflicts of Interest Board

Issued: November 13, 2006

3. **"Minimal additional expense"** means that an employee's personal use of the City's office and technology resources is limited to those situations where the City is already providing equipment or services and (1) the employee's use of such equipment or services will not result in any additional expense to the City or, (2) the use will result in only normal wear and tear and will employ only small amounts of electricity, ink, toner or paper or, (3) the City has created mechanisms for employees to reimburse the City for the costs associated with their personal use and the employee makes such a reimbursement for his or her personal use. Examples of minimal additional expenses include occasionally making a photocopy, using a computer printer to print out a few pages of material, making a brief personal telephone call, sending a personal email message, or limited use of the Internet for personal reasons. Examples of mechanisms created for employees to reimburse the City include applicable agency policies regarding employees' reimbursement of the City for personal use of mobile phones and of long distance telephone services.

4. **"Personal use"** means activity that is conducted for purposes other than accomplishing official work related activity. Personal use under this Policy does not include any use that is unlawful, violates the City's Conflicts of Interest rules or other applicable rules and regulations, or is specifically prohibited by this Policy or another applicable agency policy.

III. UNAUTHORIZED PERSONAL USES

Employees are required to conduct themselves appropriately in the workplace and to refrain from using the City's office and technology resources for activities that are unauthorized by this Policy, another applicable agency policy, or applicable law, rule or regulation. Unauthorized personal use of the City's office and technology resources includes, but is not limited to, the following uses, all of which are prohibited:

- Any personal use of the City's office and technology resources that could cause congestion, delay, or disruption of service to any of the City's office and technology resources. For example, electronic greeting cards, video, sound, digital images or other large computer file attachments can degrade the performance of the entire network. "Push" technology on the Internet and other continuous data streams can also degrade the performance of the entire network.
- Any personal use of the City's office and technology resources as a staging ground or platform to gain unauthorized access to other systems or in furtherance of unauthorized computer use.
- Any personal use of the City's office and technology resources in the creation, copying, transmission, or retransmission of chain letters, petitions or other unauthorized mass mailings regardless of the subject matter.

- Any personal use of the City's office and technology resources for activities that are inappropriate to the workplace or are prohibited by applicable law, rule, regulation or agency policy.
- Any personal use of the City's office and technology resources for the creation, downloading, viewing, storage, copying, or transmission of any material that is: obscene, sexually explicit or sexually oriented; hate speech; threatening; defamatory; known to be fraudulent; or ridicules others on the basis of race, creed, religion, color, gender, disability, national origin, or sexual orientation.
- Any personal use of the City's office and technology resources for furtherance of a non-City business or non-City employment, including, without limitation, consulting for pay, sales or administration of business transactions (not including personal finances), or sale of goods or services, including assisting relatives, friends or other persons in such activities.
- Any personal use of the City's office and technology resources to engage in any outside fund-raising activity, endorse any product or service, participate in any lobbying activity, or engage in any prohibited political activity.
- Any personal use of the City's office and technology resources to post agency information to external newsgroups, chat rooms, bulletin boards or other forums without explicit authorization.
- Any personal use of the City's office and technology resources in the unauthorized acquisition, use, reproduction, transmission, or distribution of any information, computer software or data, including, without limitation: private or confidential information about any individual, business or other entity including, but not limited to, medical information; copyrighted, patented or trademarked material or material with otherwise legally protected intellectual property rights; proprietary data; or export controlled software or data.
- Any unauthorized modification of the City's office and technology resources, including, but not limited to, loading personal software or making configuration changes.
- Any personal use of City office supplies, including, but not limited to, paper, pens and postage, other than a minimal use of supplies incident to the limited use of photocopiers, computers, telephones and facsimile machines allowed by this Policy.

IV. PROPER REPRESENTATION

It is the responsibility of employees to ensure that they are not giving the false impression that they are acting in their official capacities as City employees when they are using the City's office and technology resources for non-City purposes. If there is a possibility that

such a personal use could be reasonably interpreted to be made on behalf of the City, the employee may not use the City's office and technology resources.

V. PRIVACY EXPECTATIONS

City employees do not have a right of privacy while using any of the City's office and technology resources, whether for official or personal purposes, at any time, including while accessing the Internet or using email. Any use of the City's office and technology resources is made with the understanding that such use is generally not secure, is not private, and is not anonymous. To the extent that employees wish that their personal activities remain private, they should not use the City's office and technology resources for such activities.

By using the City's office and technology resources, whether for official or other purposes, City employees consent to the disclosure of the contents of any files or information maintained on or passing through the City's office and technology resources and of any logs or other records of the use of such equipment, including, without limitation, billing records.

By using the City's office and technology resources, whether for official or other purposes, City employees consent to the monitoring and recording of any such use with or without cause, including, but not limited to, records of access to the Internet and email usage.

Individual agencies may employ monitoring tools approved by agency senior management to ensure the proper use by their employees of the City's office and technology resources. Agency heads or their designees may access any electronic communications that are made using the City's office and technology resources.

VI. SANCTIONS FOR UNAUTHORIZED USE

Unauthorized use of the City's office and technology resources may result in: (1) loss of use or limitations on use of office and technology resources; (2) financial liability for the cost of such use; (3) disciplinary or other adverse personnel actions, up to and including dismissal; and/or (4) civil and/or criminal penalties.

VII. REIMBURSEMENT PROCEDURES

Employees are required to follow their respective agency's applicable reimbursement procedures for personal use of the City's office and technology resources.