

GOOD SENSE GOVERNANCE

Legal Affairs & Association and MLS Governance

SOCIAL MEDIA POLICIES

IN A NUTSHELL

- Social media is rapidly evolving and having a larger influence on the real estate industry. With great power, comes great responsibility. Therefore, associations need to be sure its volunteer leaders and staff use social media responsibly, particularly when representing the association.
- The issues with volunteer social media activity and staff social media activity are different. Therefore, the association should adopt two social media policies, one for volunteers and one for staff.

NUTS AND BOLTS

An association's social media policy should help ensure that its social media activity does not damage the association's image, and does not allow volunteers and staff to make any misrepresentation about the association, divulge confidential information or participate in illegal or defamatory activity.

Associations should adopt two social media policies, one for staff and one for volunteer leaders. One reason separate policies for staff and volunteers is necessary is to minimize the association's risk in distinguishing between paid staff and unpaid volunteers with the Fair Labor Standards Act. The issues with volunteer social media activity and employee volunteer activity are also naturally different.

Both staff and volunteer leader policies should address:

1. The scope of the policy and who it applies to. Unless the association decides otherwise, the policies should apply to all forms of social media, social networking sites and all internet postings. A staff policy will cover all employees (regardless of full or part time, exempt or non-exempt). A volunteer leader policy will cover elected and appointed officers, directors, committee members and other leaders of the association.
2. Who the designated spokesperson(s) for the association is and identify others authorized to speak on behalf of the association in social media. By designating official spokesperson(s), the association can help avoid the spread of inaccurate information, misrepresentation, and sending conflicting messages. Most associations usually designate the President and/or CEO as the chief spokesperson for the association.
3. What association information can and cannot be shared. For example, most associations will encourage staff and volunteers to share information on social media related to the mission, policy positions, advocacy efforts and other association news because this information is intended for the public.

Comparatively, confidential, sensitive, financial or proprietary information of an association is not intended for public distribution. The association should define what information it considers confidential, sensitive, financial or proprietary. (Remember, directors also have a fiduciary duty to the association that prohibits sharing of confidential information).

4. The association's expectations for business and personal conduct on social media. Content posted on social media sites remain available forever and is not private; therefore, posts of staff and volunteer leaders, even if posted on personal accounts, are still a reflection on the association. Guidelines for conduct on social media should be detailed and include:
 - a. A reminder to respect the law (including antitrust and intellectual property law).
 - b. A reminder to post professionally and respectfully.
 - c. A request to use a disclaimer when posting personally that views expressed are personal and not the views of the association.
 - d. A prohibition on posting disparaging, embarrassing, or defamatory statements about the association, association staff or volunteers, the association's mission or the association's advocacy efforts.
5. The repercussions for actions inconsistent with the social media policy. The association may require staff and/or volunteer leaders to remove, correct or revise internet postings in violation of the policy. Additionally, a violation of the applicable social media policy might be cause for removing a volunteer leader from his/her position, and may be basis for taking disciplinary action (including termination) against an employee, depending on federal, state and local law.

Additionally, in the staff specific policy, associations must refrain from prohibiting activity protected by federal labor law (i.e. comments on working conditions or wages). Associations should work with local legal counsel to determine the state's laws regarding privacy and protected content posted by staff.

Developing social media policies are a crucial aspect of an association's online presence. Associations should also consider creating "private" groups on channels that allow them, like Facebook and LinkedIn. Private channels allow members to discuss industry trends and issues related to the association in a private, moderated setting not available to the public.

Both the staff and volunteer policies should be widely distributed to their respective audiences in onboarding and annually thereafter and kept in readily accessible locations for reference (i.e. employee handbook and association policy and procedure manual).

ASSOCIATION ACTION

1. Research, develop and establish social media policies.
2. Consult with legal counsel on state specific social media laws and privacy expectations.
3. Educate staff and volunteer leaders on their responsibilities under the social media policies and the potential negative consequences the association could face if harmful or inaccurate information is posted (i.e. loss of trust in the brand).