



Manatee County Board of County Commissioners Policy Manual

Social Media Policy

Policy #: 24-C.1

Date Issued: 9/10/2024

Purpose

This Policy is narrowly tailored in recognition of the County's compelling and significant interests, which includes but are not limited to, ensuring compliance with federal, state, and local law, Florida's public records law and the Florida Sunshine Law, to promote and maintain an efficient workplace and work environment for County business, and in the County's interests of providing services that benefit the public health, safety, and welfare. Adequate and ample alternative channels to convey various County-related commercial or personal messages exists that are not limited or affected by this Policy, including but not limited to, speaking during public comment portions of County's meetings, posting or creating content on websites or social media services that are not County social media accounts, or using alternative means of communication that do not involve County websites or social media services. Such alternative methods are reasonable for the affected speaker to communicate directly to his or her intended audience. For these reasons, commercial and personal posts on County maintained websites are prohibited.

This Policy is also intended to function as a guide and clear communication to users of the County's social media services of the best lawful practice and operational realities in utilizing County social media services when used for purposes relating to or perpetuating County business. The County-utilized social media services shall function solely as an expression of the County's government related speech and viewpoint. Such government speech shall relate to the County's preservation of the ability to promote itself and community news and events, to share governmental related messages that the County desires to communicate, and to otherwise craft and limit the content and views of the speech of the County in order to convey information for the purposes set forth herein as the County desires, in its sole discretion, as determined by the County's Records & Information Management Manager (subject to the direction and control of the County Administrator or as otherwise may be directed by the County Commission). At its core, the County's government speech shall be justified based upon the premise that, in order to function, the County must have the ability to express certain points of view on most issues, including control over that expression, without providing for the expression of contrary views.

In contrast, in circumstances where the County actively solicits or encourages public comments the County-utilized social media services shall be construed as creating a designated or limited public forum in accordance with the topical and expressive parameters provided in this Policy. The County retains the exclusive right to treat County-utilized social media services as designated or limited public forum, or alternatively, as a forum for the sole expression of the County's government speech alone at any time and without notice. At all times, however, utilization of County social media services is intended primarily as a means for the County to express its own content and viewpoint consistent with the government speech doctrine, to

inform and educate the public, to efficiently and timely perform County-related tasks, and to otherwise provide an alternative avenue for the County itself to directly communicate to the public.

Policy

A. Definitions

- “Content Managers” are the officers, employees, or agents of the County assigned responsibility for posting and/or maintaining County content on a social media service.
- “Social media services” are websites, web services, platforms or applications offered by non-County third-party entities that enable users to create and share information and content or to participate in social networking.

B. General Requirements

- Each County-utilized social media service must be created, configured, and approved by the Information Outreach department, which shall review each based on the following and other relevant considerations:
 - Ensuring that the County is allowed and permitted by the social media service to allow the County to retain editorial control of content in accordance with this Policy and the designated or limited public forum intended to be created by the County thereon; and
 - The concept, platform, audience, and marketing plan for the social media service including the relevant terms of service, if any, relating to same.
- Each County-utilized social media service shall be used primarily as a means for the County to release its own County messages and to engage in County-related speech and discussion of the County’s own viewpoint and content. The County shall use such social media services to promote the County and County services, job opportunities, County announcements, County events and advertising for same, and other matters that support the interests of the County and the citizens, visitors, and businesses of the County.
- The Information Outreach department shall create, configure, and maintain the main administration account for each social media service in conjunction with other relevant County departments as determined by the Information Outreach department to create relevant County account information, usernames, passwords, and any other matters required to comply with this policy. No personal information shall be utilized in setting up such accounts, unless required by the service or site policy and the ability to maintain the privacy of such information is provided.
- The Information Outreach department may establish such County accounts on social media services even if the County does not currently plan to utilize such services in order for the County to reserve same for County utilization in the future.
- All County-utilized social media services shall clearly indicate that they are maintained by the County, shall provide relevant County contact information, and shall link to the County’s official website for forms, documents, online services, and other information

necessary to conduct business with the County. Additionally, all County-utilized social media services shall prominently display as far as practicable that such services contain content relating to the County's speech and viewpoint.

- No personal information about a County officer, employee, or other agent shall be displayed on a County-utilized social media service used by the County, unless approved by the County Administrator or their designee. County posts and content shall not express the personal opinions of any County officer, employee, or other agent, and shall be limited to expressing the viewpoint and speech of the County or otherwise advancing the County's interests.
- The County's utilization of social media services shall comply with all provisions of federal and Florida law, resolutions and ordinances of the County, policies and directives issued by the County Administrator or other authorized County officer or department, and the relevant terms of service of such site, service, or application.
- The Information Outreach division must have full administrative rights to review all County information and County generated content. Notwithstanding the preceding, the Information Outreach Division, Records & Information Management Manager, or the designee of the County Administrator may delegate the responsibility of reviewing content to other County departments as deemed appropriate.
- The Information Outreach department shall review the County's use of social media services at least on a yearly basis to ensure that such meets or exceeds the County's policies, that the use and function of the services meet the needs of the County and its residents, businesses, and visitors, to ensure that account information is kept current and updated, and other relevant considerations. The County shall retain the right to terminate the use of any service at any time and without notice.
- The requirements set forth in this Policy apply regardless of whether the computer or electronic device utilized for County-related content or postings on social media services are personally owned by a County officer, employee or other individual where applicable and relevant. Further, the use of personal computers and other electronic devices for communicating or posting on behalf of the County-utilized social media services utilizing the County's account credentials may subject such devices to inspection pursuant to Florida's public records law and/or the Sunshine Law.

C. Public Records Law considerations

- Any post made by a county officer, employee, or other County agent, or by a member of the public, to a County-utilized social media service may constitute a public record pursuant to Chapter 119, Florida Statutes. Content managers shall maintain an archive of all posts, content, and other submissions made to the County's social media services and shall take all actions necessary to comply with the public records law, including the retention schedules relating to same. For County-utilized services that allow comments from the public, the statement described in the fourth bullet in the Public Participation subparagraph of this Policy shall be displayed as allowable by the social media service.
- County-utilized social media services are not the appropriate channel for the County's receipt of public records requests, and any post purporting to make a public records request to the County should be removed. Notwithstanding the preceding, any public records request purported to be made upon any County-utilized service shall be promptly forwarded to the Custodian of Record.

- Where appropriate, transitory, inappropriate, or non-germane posts or comments and other electronic communications, posts or comments made to the County's utilized social media services by third parties should be removed or deleted as quickly as is reasonable and allowable under the public records laws and the record retention schedules established by state regulations. The existence of such content, comments, or posts for a specific period of time shall not function or be construed as the County's waiver of this Policy, in whole or in part, nor shall it function or be construed as the County's implied or presumed intent to expand the nature of the designated or limited public forum as set forth herein.
- Content managers are encouraged to consult with the County Records & Information Management Manager and the County Attorney if they have questions regarding compliance with the public records law, the Florida Sunshine Law, or this Policy.

D. Florida Sunshine Law Considerations

- The County strongly discourages any post, comment, or content to a County-utilized social media service by a member of any board, commission, or advisory committee of the County (hereinafter "Board Member") regarding any matter currently pending or which may foreseeably come before the Board Member's board, commission, or committee. In no event should a Board Member respond to a post by another member of such board, commission, or committee on any County-utilized service where such post, comment, or content relates to any matter pending before such board, commission, or committee, or which may foreseeably come before such board, commission, or committee.
- Content managers shall not post information or content to a County-utilized social media service that reflects a personal statement made by or a personal position of a Board Member regarding a matter before or which may foreseeably come before the Board Member's board, commission, or committee, in order to avoid facilitating communications between Board Members, to prevent the County's services from failing to convey the positions, viewpoint, and speech of the County, and to otherwise avoid a violation of this Policy.
- Board Members and content managers are encouraged to consult with the County Attorney if they have questions regarding compliance with the Florida Sunshine Law or this Policy.

E. Public Participation

- If the County elects to allow public comment or participation upon County-utilized social media services, such public comment or participation shall be designated or limited to comments, posts, and communications which are germane, topical, and relevant to the County's speech and viewpoint communicated thereon. Accordingly, content managers may remove content, comments, and postings from the public of the types listed below, which are determined by the County to be outside the parameters and established boundaries of the County's designated or limited public forum:
 - Comments not topically related to or germane to the particular item being commented upon.
 - Comments that are inconsistent with the County's purpose in allowing public comment upon a particular County-utilized social media service.
 - Profane language or content, including obscenity, pornography, and sexual content or links to sexual content.

- Solicitations of commerce and advertisements.
 - Defamation, libel, or slander.
 - Harassing or discriminatory speech relating to any protected class under the Fifth and Fourteenth Amendments, including but not limited to, speech that discriminates on the basis of race, gender, religion, national origin, sexual orientation, disability, or age or that creates a hostile work environment in the County.
 - Fighting words.
 - True threats, including but not limited to threats of bodily harm, threats of harassment on social media or any other threatening language that is not considered protected speech.
 - Extortion or other speech in violation of federal or state law.
 - Speech or communications in violation of Florida or relevant federal ethics or gift laws.
 - Speech or communications that reveal protected financial information, confidential health information, or that is in violation of the applicable exemptions, exceptions, or confidential provisions of the Florida Sunshine Law.
 - Electronic communication harassment or cyber stalking.
 - Speech or communications that present a clear and present danger of immediate lawless action or speech or communications that encourage illegal activity.
 - Speech or communications in violation of any copyright, trademark, or trade secret federal or Florida law.
 - Information that may tend to compromise the safety or security of any individual or of the public.
 - Speech or communications which violate the terms of service of the County-utilized service.
 - Any other unprotected speech or communications in accordance with federal or Florida law.
 - Fraudulent Information
 - Anything that violates intellectual property rights.
 - Post that contains the same or substantially similar post that are repeated and fit the profile of robo posts.
 - Links to commercial sites.
- A content manager shall not remove a public post, comment, or submission not described under the first subparagraph above based solely upon the viewpoint or content expressed in such post, comment, or submission.
 - The following statement shall be prominently displayed to the fullest extent practical and permissible on all County-utilized social media services:

Any post, communication, or submission to this website, account, application, or service, may be removed at the sole discretion of Manatee County Government ("County") in accordance with the County's Policy Governing County use of Social Media ("Policy"), and the County reserves the right to revoke participation or content posting rights hereon at any time and without notice or otherwise terminate the operation of any designated or limited public forum created therein. Pursuant to Florida law, any post, submission, or communication may constitute a public record under chapter 119, Florida Statutes, which may require the County to archive and otherwise make such post, submission, or communication available for public inspection. This website, application, account, service and any postings or communications thereon are not monitored for public records requests, questions, notice, or any other requests from the public, and all

participants should not expect any response from the County. Should you desire to make a public records request, please direct such request to the County Records Division. By submitting any post or content to this site, application, or social media service, you expressly consent to the copying, use, and disclosure by the County of any such post or content at the County's discretion and waive all copyright, trademark, and other rights you may have in such post, content, or communication. You further agree to indemnify and hold harmless the County from and against any and all fees, costs, fines, penalties, lawsuits, claims, damages, attorneys' fees, and any other adverse matters caused by or relating to your posting of any content to which you do not hold legal rights, including copying, trademark, or other legal rights.

- The County does not intend, nor should this Policy be construed as creating any right or expectation in members of the public relating to any active participation or expression on County-utilized social media services.

Use of Private Social Media Services

County Commissioners, Board Members, and County employees are advised that posting information relating to County business on personal social media services may result in the creation of public records and impart legal obligations individually upon them pursuant to the Public Records Act. What constitutes County business for Public Records Act purposes can be complex and may be different depending on the scope of County duties of the individual making the social media post. To the extent County Commissioners and/or Board Members use their private social media accounts to post County business related information, the Information Outreach department may assist County Commissioners and/or Board Members in archiving such social media post for Public Records Act compliance purposes. County Commissioners and Board Members should not use social media services to have communications amongst other members of their same commission, board, or committee that violate the Florida Sunshine Law.

Notwithstanding the preceding, this Policy otherwise does not apply to personal utilization of social media services as this Policy is limited in application to County-utilized accounts for services as set forth herein. County Commissioners, Board Members, and County employees are encouraged to contact the County's Information Outreach department Director or County Attorney with questions relating to County related business or topics as applied to personal accounts for social media services.

Additional Legal Matters

Severability/Conflicts

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this Policy is declared unconstitutional by valid final judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part of this Policy. Should this Policy conflict any County ordinances, or parts thereof, then those provisions shall apply but only to the extent of such conflict.

Disclaimer/Non-Waiver

The County disclaims all liability and shall not be responsible for any effect, injury, damage, claim, action, or demand to the fullest extent permissible under law relating to or arising from a post or submission to a social media service by any member of the public, the County's removal of or failure to remove a post or submission by a member of the public, the County's failure to follow or enforce this Policy in every circumstance, or any other matter related to this Policy. The County further disclaims all liability and shall not be responsible for content or expressions that are posted by County employees or agents not acting in the course of their County duties with authorization as outlined in this Policy. Failure to comply with this Policy or any portion thereof by the County shall not create any expectation or interest in any private, public, or other right of action against the County, its elected or appointed officials, officers, employees, personnel, or agents. By posting information, content, or any expressions to any County-utilized social media service the County does not waive any legal right, protection, privilege, or immunity, including but not limited to, copyright, trademark, and/or sovereign immunity, and the County retains all rights to such information, content, or any expressions to the fullest extent permissible under federal and Florida law.

Originator, Title, and Department Name

Lacy Pritchard, Records & Information Management Manager, County Administration

Authority

Resolution R-24-183; Adopted 9/10/2024

History

Related Procedures

Title and number of proposed Procedure(s) to implement this policy

- 301.008 Social Media Procedure

Issued and Sunset Dates

Issue Date: 09/10/2024

Sunset Date: